DOCUMENT RESUME

ED 435 557 SO 028 706

TITLE	The Iowa Court System. Second Edition.
INSTITUTION	Drake Univ., Des Moines, IA. Iowa Center for Law and Civic Education.
SPONS AGENCY	State Justice Inst., Alexandria, VA.
PUB DATE	1995-06-00
NOTE	138p.
CONTRACT	SJI-94-12A-D-022
PUB TYPE	Guides - Classroom - Learner (051)
EDRS PRICE	MF01/PC06 Plus Postage.
DESCRIPTORS	Civil Law; *Court Role; *Courts; Criminal Law; Curriculum Guides; Due Process; Juries; Justice; Juvenile Courts; *Law Related Education; Laws; Secondary Education; Service Learning; Social Studies
IDENTIFIERS	Felony Cases; *Iowa; Misdemeanors; Trials

ABSTRACT

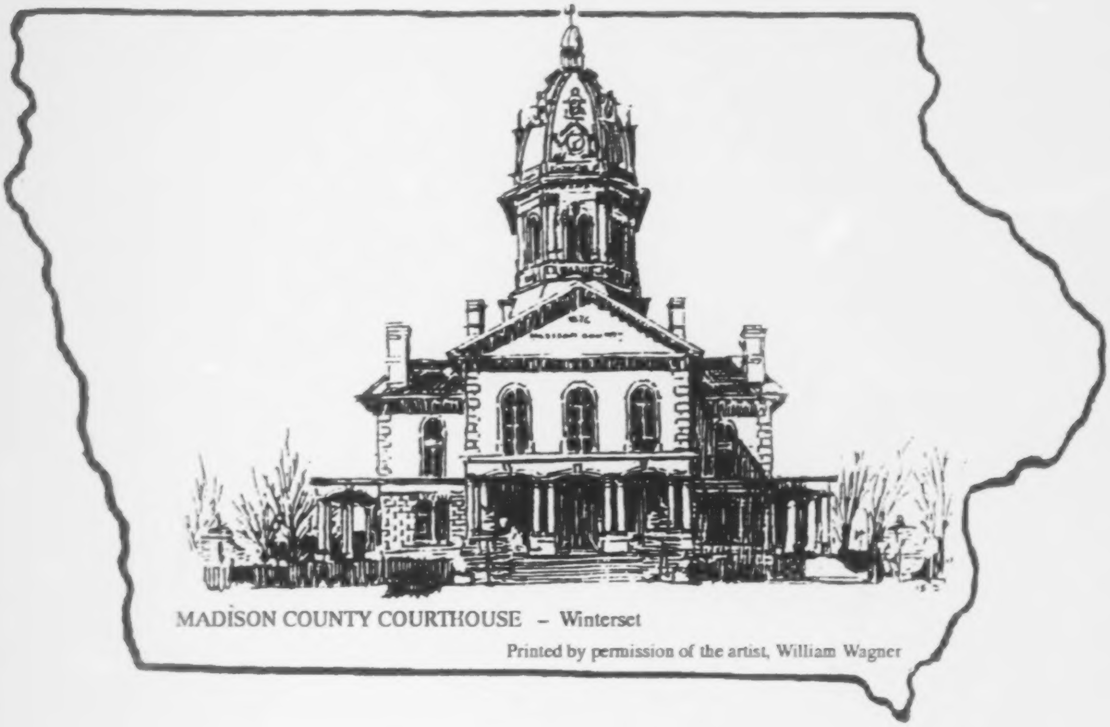
This guide is intended to advance high school students' understanding of the Iowa court system and the democratic principles on which it is based. The guide focuses on the Iowa district courts. Although 80% of law takes place in district courts, few national texts cover the district courts due to differences in district courts from state to state. The guide briefly overviews the proposed curriculum, potential teaching methods, format of the student guide, examples of possible educational outcomes, and ways to evaluate student achievement and the effectiveness of the project. The guide also focuses on the use of outside resource persons and service learning to enhance the curriculum. Separated into eight chapters, the guide covers lessons on the history and role of the courts, the structure of the courts, criminal and civil procedures, juries, the juvenile court, and concludes with a chapter on the future of the Iowa courts. The guide contains a concluding activity and a glossary. (TSV)

Reproductions supplied by EDRS are the best that can be made
from the original document.

ED 435 557

THE IOWA COURT SYSTEM

SECOND EDITION



MADISON COUNTY COURTHOUSE - Winterset

Printed by permission of the artist, William Wagner

SO 028 706

THE IOWA CENTER FOR LAW AND CIVIC EDUCATION
DRAKE UNIVERSITY
DES MOINES, IOWA
JUNE 1995

State
Justice
Institute

[illegible]
John P. Wheeler
[illegible]

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☑ This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

- Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

BEST COPY AVAILABLE

INTRODUCTION

This text will introduce you to the workings of what is probably the least known of the three branches of Iowa state government: the Iowa judiciary. Each citizen needs to understand how the Iowa court system operates so she or he can

- understand how democratic ideals are embodied in the courts
- be familiar with the procedures when encountering the system
- make use of the judicial system to settle disputes
- fulfill one's obligations as a citizen to be knowledgeable about the many policy issues that swirl around the judicial system

Despite the imperative of citizen knowledge about the court system, textbooks seldom address this vital state function. Because each state has different laws and legal procedures, textbooks don't address the fifty different forms of state governments. This text , then, is unique. It is, as far as we know, the only textbook designed for high school students which focuses on the state court system.

But the text is only one part of the process of learning about the courts. The other component consists of deeds, not words. At the direction of your teacher and the Clerk of Court, you will engage in some work connected with the court. This is called "service learning," the term used when community service is rooted in the curriculum, when knowledge of a particular subject is enhanced while by work the student is doing which also helps the community. This service learning project will provide you with an opportunity to experience and practice citizenship rather than merely reading about it.

We hope you will enjoy working with the interactive lessons in the curriculum and with the service learning project. We also hope you learn about the workings of the court and come away with a new appreciation for the vitality of democratic ideals of justice and the dedication of the professionals who make the Iowa justice system work.

The Iowa Center for Law and Civic Education
Drake University

This document was developed under SJI-94-12A-D-022 from the State Justice Institute. The points of view expressed are those of the authors and do not necessarily represent the official position or policies of the State Justice Institute.

INDEX

CHAPTER 1 - COURTS OF LAW 1.1 - 1.13
- The purpose of courts
- The history of dispute resolution
- The role of the courts in promoting the values of a democratic society: Judicial review; Due process; Adversary system
- Victims of crime
- Begin action project

CHAPTER 2 - THE STRUCTURE OF THE IOWA COURT SYSTEM 2.1 - 2.24
- Iowa's eight judicial districts
- Types of cases heard in district court — criminal and civil, felonies and misdemeanors
- Appellate courts
- Iowa judges
- State court Administrative positions
- Federalism - federal courts

CHAPTER 3 - IOWA'S COURT PERSONNEL AND SERVICES 3.1 - 3.9
- Government resources at local, county, state and federal levels
- People in the court house

CHAPTER 4 - IOWA'S CRIMINAL JUSTICE PROCESS 4.1 - 4.22
- Four basic elements of crime
- Five possible purposes of criminal penalties
- Ranking crime
- Criminal procedures from arrest to trial
- Standards of proof
- Steps in a trial
- Victims of crime

CHAPTER 5 - CIVIL PROCEDURES 5.1 - 5.11
- Differences between civil law and criminal law
- Three areas of civil law: domestic relations; torts; contracts
- Procedures in civil law
- Small claims process

CHAPTER 6 - THE JURY 6.1 - 6.17
- Historical importance of jury trials
- The power of the jury
- Jury service in Iowa
- The voir dire process

CHAPTER 7 - JUVENILE COURT 7.1 - 7.18
- Definitions
- Philosophy of the juvenile court
- Waiving a juvenile to adult court
- Juvenile court personnel
- Development of the juvenile justice system
- Juvenile court procedures - differences from adult court procedures
- Dispositional hearing

CHAPTER 8 - WHAT'S AHEAD FOR IOWA COURTS 8.1 - 8.11
- Iowa: Commission on Court Planning for the 21st Century
  - Increased caseload
  - Technological changes
  - Access to the system
  - Equality
  - Alternative dispute resolution
  - Alternatives to incarceration
- National: Just Solutions Conference
  - Social issues
  - Access to the system
  - Consumer friendly justice
  - Equal justice
  - Family and juvenile justice
  - Crime
  - Civil justice
- Changing law impacts the court
  - Juvenile law changes

CONCLUDING ACTIVITY

GLOSSARY

CHAPTER 1

COURTS OF LAW

Court Talk

Eye for an eye

Trial by combat

Trial by ordeal

Trial by oath

Judicial review

Due process

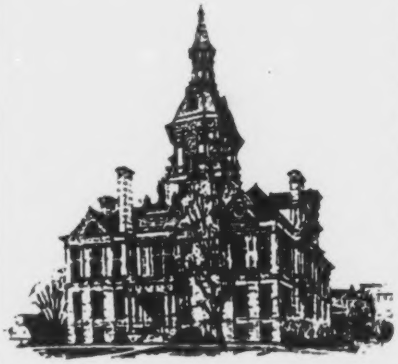
Adversary system

Objectives

When you have completed this chapter, you should be able to:

- Discover gaps in your knowledge of the Iowa court system
- Determine the reasons why courts are necessary
- Describe previous methods for determining guilt or innocence and settling conflicts
- Define three judicial concepts vital to the U.S. justice system: *judicial review, due process, adversary system*

Eyes Open



In your county (and in your hometown if you live in one of the ninety-nine county seats in Iowa), there's a district courthouse. In many Iowa counties, the district courthouse is an imposing brick structure built before or shortly after 1900. Does the courthouse still serve a vital purpose almost a hundred years later? What do you think of when you hear the word "courthouse"? Have you been in your courthouse? Why might you go there? What goes on in your courthouse? Who works there?

MARSHALL COUNTY COURTHOUSE

Printed by permission of the artist, William Wagner

* * *

The hot sun relentlessly beat down on the small collection of recently built one-story board houses and the general store, all of which fronted a two-block long dusty street in the Territory of Iowa. The occupants, huddled behind their locked doors, fearfully peeked out their windows, at the five steely-eyed men who rode their horses toward the hamlet These were the feared marauders who preyed on defenseless people, stealing their few possessions, terrorizing them, and shooting up the place just for meanness. They had no fear of being challenged because this was no-man's land. There was little law yet in the newly formed Iowa territory and no enforcers of the law. The only law was the gun. There was no justice. There was only who was the strongest and the fastest. Might was right.

Did you think it happened only in movies about the wild west?

* * *

What Do You Know About the Court System in Iowa?

PRE-TEST / POST TEST. Your teacher will give you a pre-test to give you a baseline about how much you know now about Iowa courts. At the end of the unit, you can take the test again to find out how much you've learned.

TAKE NOTES AS YOU TAKE THE TEST: As you take the test, jot down some of the questions you're uncertain about or are curious about and want further information about. After the test, you and your classmates will divide into small groups of three to five students and discuss the questions you've jotted down. Each group will select five questions and present them to the rest of the class. If the questions are about facts in the legal system, you will want to make sure you find the answers. If the questions are opinions about the legal system that people might disagree about, they can provide some interesting discussion. Select a recorder to write down what the various group members say, and a spokesperson to report back to the class the questions your group had.

If no one in the class has the answer to one of the questions, this is definitely an area you'll want to research. Who could you ask for the answer to such a question?

Why Do We Have Courts?

Eyes Open

What if we didn't have courts? Would you be better off or worse off? Why might you want to take a case to court? What is the primary reason we have courts?

You are angry at your brother because he wore your sweater without asking you, spilled mustard on it, and put it away without cleaning it .

Your father is angry with you because you didn't return home at the time he told you to be. He's pondering what would be a suitable punishment for your disobeying his orders.

Your were with your friend Sally two weeks ago when she bought a compact disc player. She told you yesterday the CD player isn't working properly but the store won't refund her money.

Your boss told you she didn't like the rude way you treated the customer who complained about the service.

You argued in class against the death penalty while your classmate Roger argued for it.

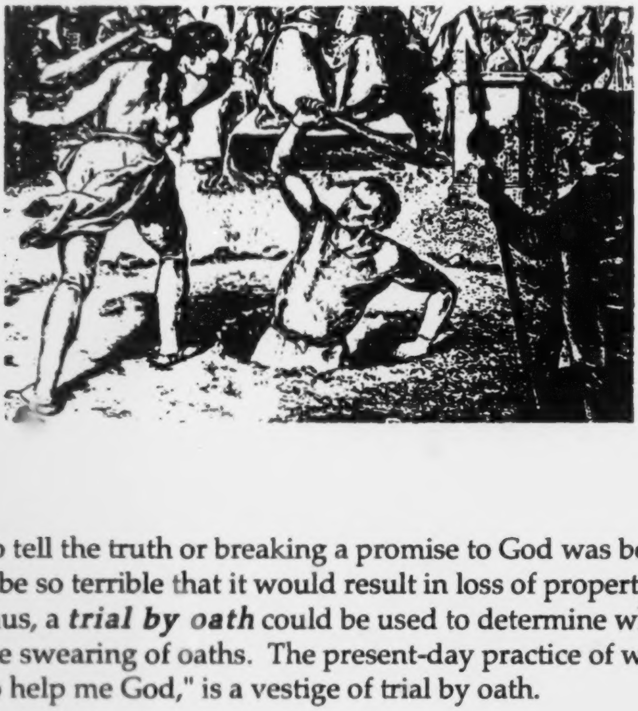
These are everyday types of conflict we all experience. Because human beings have differing values or cultural history or are resistant to change, are sometimes competitive, aggressive, selfish, bigoted, irresponsible or misunderstand one another or are misinformed, conflict is natural and inevitable.

However, conflict is not always bad or destructive. It can be constructive if it is used to improve our individual growth or to improve our institutions. For instance, if during the 1960s there had not been conflict over Jim Crow laws and the "separate but equal" doctrine, the United States might still be a legally segregated society.

Courts were set up to deal with two situations. One is where the government brings action against a person charged with committing an act which violates criminal law, the law which regulates public conduct and sets out duties owed to society. The second situation regulates relations between individuals or groups of individuals who feel wronged or injured by another person. In the past, human conflict was dealt with in a variety of ways. The old concept of an eye for an eye defined justice as "getting even." Blood feuds in which each side took turns killing for retribution resulted in many deaths but seldom settled the initial argument.

During the Middle Ages, to determine right from wrong or guilt from innocence, the battle for truth was fought through arranged fights between knights. Called ***trial by combat***, each knight would represent a party in the conflict. They fought on horses or on foot until one knight died or begged for mercy. The strongest knight won. The justification for trial by combat seems to have been that "Might is right."

Trial by ordeal was another way in which conflicts were settled. The accused was required to prove innocence by enduring great pain without getting hurt, such as carrying a piece of red hot metal or pulling a ring from a pot of boiling water or surviving a prolonged dunking in water. Because it was then believed that God would protect the innocent, people believed that an innocent person would be able to stand incredible physical pain or survive life-threatening punishments. If not, they were guilty.



Failing to tell the truth or breaking a promise to God was believed, in Anglo-Saxon times, to be so terrible that it would result in loss of property, crops, animals, even death. Thus, a ***trial by oath*** could be used to determine who was responsible for crimes by the swearing of oaths. The present-day practice of witnesses swearing to tell the truth "so help me God," is a vestige of trial by oath.

Over centuries, courts were developed to handle disputes through a legal process. One has only to think back to a little more than a hundred years ago to the Wild West, which was called "wild" because it was lawless. There were not yet legal institutions in place to settle disputes. The gun was the primary method of settling conflict. One didn't have to be right or fair; one only needed to be fast and ruthless.

Today's court system has developed elaborate rules to promote fairness. Some rules protect the process itself and some protect the defendant – for instance, strict rules about evidence and providing everyone with an attorney.

In an ideal world, the courts* would always find the truth and justice would always be served. But, of course, the judicial system is not always fair and does not always deliver justice because it involves human beings with their prejudices, emotions, and desire to win. In Chapter 8 some of the problems which confront courts today will be examined. Despite the shortcomings of the current judicial system, it is the surest method we have yet developed for peacefully and fairly dealing with human conflict.

* When the term "court" is used, it may mean judge or jury or both, depending upon the circumstances.

Heads Up

1. Name some events when conflict resulted in a more just society, such as the long struggle to win the vote for women.
2. Are we still using any of the methods described above to settle conflicts?
3. How would our society be different if we did not have courts?
4. What might be better alternatives to our present court system?

The Role of the Courts in Promoting the Values of a Democratic Society

Incorporated into the legal system of the United States are a number of judicial concepts vital to our democratic legal system. Below is a description of three of them vital to all court systems in the United States:

JUDICIAL REVIEW. Americans have historically emphasized rights. The Founders had a great fear that government would intrude on the *rights* of the individual to life, liberty and the pursuit of happiness, so the United States Constitution and the Bill of Rights were written to limit the powers of government. Our Constitution guarantees all Americans basic rights. Judicial proceedings uphold these rights for all citizens.

One of the things that sets our legal system apart from other legal systems is that people in our country can challenge in our courts the conduct of government as unconstitutional. If a citizen or group of citizens is affected by a law which they believe is a violation of their constitutional rights, they can ask the courts to find the law unconstitutional. If the court so finds, the law is null and void.

Judicial review, established in 1803 in the Supreme Court case of *Marbury v. Madison,* is the power of any court to hold unconstitutional any law, official action based on law, or any other official action which the court perceives to be in conflict with the U.S. Constitution. The power of judicial review enables the courts to serve as a check on the executive and legislative branches of government. Look up the case of *Marbury v. Madison* to find the particulars of this important case.

Even in Great Britain from whom we received our legal heritage, there is no constitution, and no one can challenge in any court an act of Parliament as unconstitutional. In France, the constitutionality of any legislative act can be addressed only in its constitutional court and that must be done *before* the legislation is enacted; it cannot be challenged after its enactment and its application to a particular individual or entity.

DUE PROCESS. Our legal system is based on the premise that all people are equal before the law and that the justice system must be open and fair to all. No matter what an individual is accused of, his or her constitutional rights must be upheld. A major component of our legal system is the belief that every person is innocent until proven guilty. And every person accused of a crime is entitled to a fair trial using fair laws and procedures. This concept is called **due process**. The Fifth Amendment to the U.S. Constitution firmly sets due process in American law, and the 14th Amendment extends it to the states.

Due process involves several principles, or rights, including:

1. The right against unreasonable searches and seizures (4th)
2. The right to be informed of one's constitutional rights whenever suspicion focuses upon him (5th and 6th)
3. The right to remain silent (5th)
4. The right to legal counsel at every critical state of criminal proceedings (6th)
5. The right to reasonable notice of the nature of the charges against him (6th)
6. The right to be heard (6th)
7. The right to confront any witness testifying against him (6th)
8. The right to a fair trial (6th)
9. The right to trial by jury (6th)
10. The right to a speedy and public trial (6th)
11. The right against double jeopardy (5th)

Hands On

Read "The Bill of Rights Rap" to see if any of the rights listed above are missing. If so, write a line or two of rap which describes the missing right.

The Bill of Rights Rap

Listen up!
Here's what we're gonna do.
We're gonna explain
the Bill of Rights to you.
There's ten of them.
They're really neat.
So, listen closely.
Don't wanna repeat–
Don't wanna repeat–
Don't wanna repeat–

You're free to speak.
You're free to pray.
You're free to write
and assemble everyday.
You can write a letter
to make things better.
All these freedoms are packed together
to make Amendment Number One.
But, we're far from done–
far from done–

Amendment One.

We can form a militia
If there's an issue
That needs attending.
It's our rights we're defending!

Soldiers can't hang out in your home;
They can't raid the fridge.
Or use your phone.
Get off the phone. Get off the phone!

You, your house and your personal stuff
Are protected, that's no bluff.
From searches and seizures by the government.
Only with a warrant may the police be sent.
Of course, there are exceptions to this rule.
Obey the law, don't be a fool.
I'm telling you–Don't be a fool.

You can't be on trial more than one time.
When accused of the same crime–
But if you're found guilty the first time
It's for sure, you'll be doin' time.
Doin' time–Doin' time

The trial is public.
Have no fear.
You'll get a jury of your peers.
You don't have to say something that'll incriminate.
Of influence deciding your fate.

Your life, your property and your liberty,
Can't be taken away from you
Without a process
That needs adhering to
It's called the process that you are due.

Going to trial must be speedy.
You'll get a lawyer.
If you're needy.

You'll need to know why you're on trial.
Who accused you.
And what's in your file.
You can bring friends who'll say
It ain't so.
And hopefully you'll be free to go.
Free to go–free to go.

The punishment must fit the crime.
It can't be cruel or undefined.

The laws that aren't set right here.
The state can write.
But they must be clear.

We hope you understand our rap.
That it makes your fingers snap and toes tap.
The Bill of Rights is important to you.
It's part of all we do.
It makes us all one group of people.
That's why it's of, by, and for the people!
For the people–for the people!

from the Fall 1993 edition of
Update on Law-Related Education -
Student Edition No. 1
© 1991 Suzin Glickman.

ADVERSARY SYSTEM. The American trial system rests on the concept of the adversary system which pits opposing sides against one another in an attempt to reach a resolution. Ideally, the opposing parties present their best arguments while pointing out the weaknesses in the other side's case. The judge or jury can then best determine the facts. It is similar to contest between opposing teams: whichever is able to present the stronger case will emerge as the winner.

The premise behind the adversarial system of dispute resolution is that the best way for the truth to emerge is to allow two opposing sides to present their cases to a neutral third party. The opposing attorneys or adversaries must follow formal rules of evidence and procedure when presenting their cases. This helps to ensure that the case is conducted in a fair and orderly fashion. Both the defense and the prosecution have a duty to seek justice.

The duty of the prosecution is to protect society by making sure the guilty are tried, convicted and punished. The duty of the defense is to try to assure that the rights of the defendant are not violated and to discredit the prosecutor's case by raising all reasonable doubts about the defendant's guilt. The judge or a jury must decide which side presented the case which is most believable.

Not all legal systems rely on this method. In fact, criticism is sometimes leveled at our system because lawyers strive for victory over their adversary rather than searching for truth or justice. For example, a lawyer who knows his client is guilty is still obligated to defend his client and to cast doubt on the state's case, even if he knows that the state's case is accurate.

In the continental legal system, which governs most of the continent of Europe and which is largely the system operating in Japan, only judges examine and cross-examine the witnesses. A lawyer has no right to examination or cross-examination in this process. This is called the inquisitional system.

The adversary system has long been the cornerstone of the American legal system, however. It has been and continues to be believed by many that approaching the same set of facts from totally different perspectives will uncover more truth than would other methods.

Hands On

Begin collecting newspaper or magazine articles on the judicial system, crimes, trials, and appeals. Identify instances where there are constitutional challenges to a law or interpretation of a law, where due process is being observed, and the adversary system comes into prominence. Begin to pay attention to the various steps that happen once a person is arrested, as well as the formal steps in a trial.

Heads Up

1. Compare what you know about our legal system to the legal system of some other nations. How are they similar? How are they different?

2. In order to speed up the trial process, some people want to limit the due process rights of the accused. Would you be willing to limit any of the due process rights? Which one(s)? What might be the positive and negative effects of such limitation?

3. There is a growing awareness that many conflicts can be settled through mediation rather than a trial. What would be the advantages? Disadvantages?

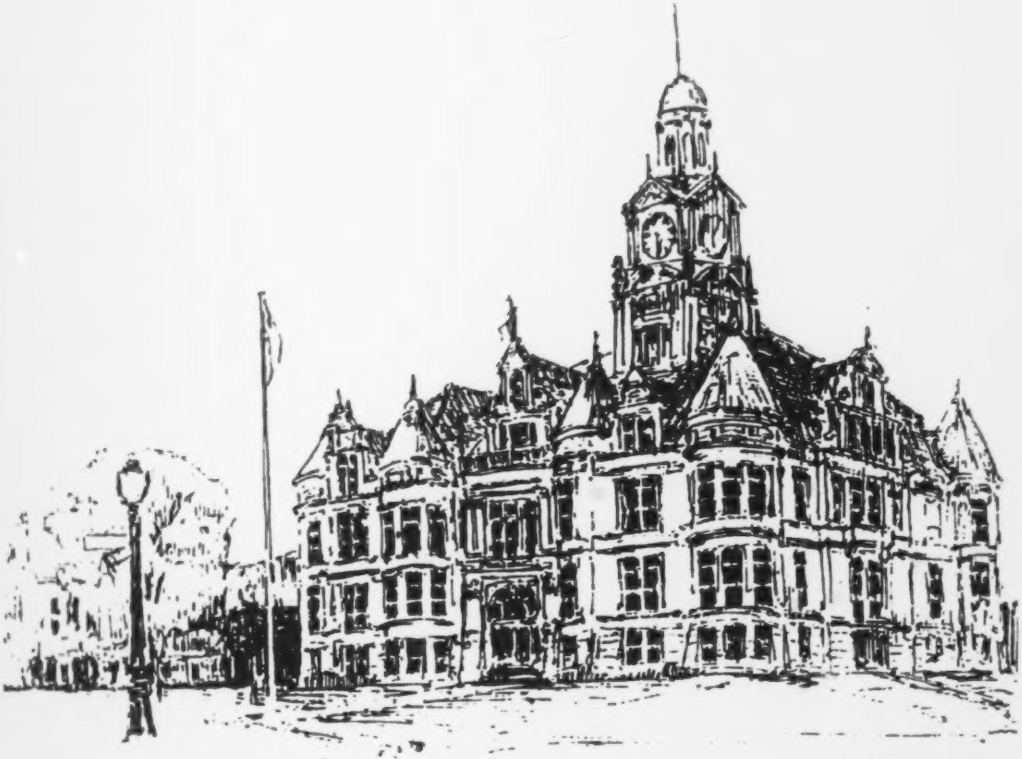
4. Discuss one or more of the statements below. Choose one of the statements to write about in your journal.

   A. *Where law ends, tyranny begins.*
   B. *There is hardly a political question in the United States which does not sooner or later turn into a judicial one.*
   C. *Reason is the life of the law.*
   D. *It is better to let the guilty go free than to condemn one innocent person.*
   E. *Let no guilty person escape, if it can be avoided.*
   F. *All religions, laws, moral and political systems are but necessary means to preserve social order.*
   G. *No personal considerations should stand in the way of performing a public duty.*

5. You may want to take an in-depth look at your own courthouse. In your school or town library there are stories about your courthouse. Surely someone in the courthouse or someone from the local Historical Society knows its history. Why was the courthouse built in this particular town? What do you think the building itself says about how government was looked up at the time the courthouse was built?

6. *The Des Moines Register* in a September 11, 1993, editorial said about the old capitol in Iowa City and the current capitol in Des Moines, *"[These capitols] are not dead monuments to the past. They are living monuments whose beauty expresses a soaring faith in American democracy. Long may they glitter."*

Is your county courthouse a dead monument or a living one? Explain how it could be called an expression of the people's faith in democracy.



DALLAS COUNTY COURTHOUSE
Printed by permission of the artist, William Wagner

Mind Shaping

ACTION PROJECT (Service Learning Project)

A major part of the curriculum for this unit will be an Action Project which you, your teacher and the county Clerk of Court will decide on which will

1) help you learn more about the courts and
2) assist the court in some way to solve a problem

Since the project is a major part of this unit but will vary from county to county, your teacher will explain in detail what you will be doing to fulfill this part of the unit.

During your work with the court system, you will, in part,

- learn and record vocabulary terms you hear
- keep a record of events which relate to democratic values
- consider possible careers as you meet court personnel
- create a portfolio which will be used as an evaluation tool (see below)

PORTFOLIOS.

At the end of this unit, the portfolio you have created during this unit will become one of the major tools your teacher and you will use to determine how much you learned during this unit.

Your teacher will review with you the items you will be required to have in your portfolio and some that you might want to add.

As part of your portfolio, your teacher may direct you to **KEEP A JOURNAL.** A Journal is used to keep a record of your experiences during this unit, your personal goals in this unit and comments on what you experience.

Use your journal to keep a record of

Knowledge **gained**:

- **knowledge** — facts about the court system, figures, procedures, stories
- **events experienced** — what you saw and did; things that excited or interested or bored you
- **questions generated** — what puzzled you or made you curious?
- people **you met** — describe them; how did you relate to them?

Skills **gained:**

- **working with peers**
- **working with adults**
- **speaking or writing skills**
- **decision-making skills**
- **analyzing a situation**
- **problem solving skills**

Values:

- **what you want to get out of the unit** — personal goals
- **your feelings** — good, bad, ambivalent (you're uncertain about how you feel)
- **changes in your thinking — and the reasons why**
- **recommendations for change** in either the curriculum or the project or both — what you valued and did not value in this unit

CHAPTER 2

THE STRUCTURE OF THE IOWA COURT SYSTEM

Court Talk

judicial districts
judicial election districts
district court
appellate courts
civil law
criminal law
felony
misdemeanor
prosecutor
plaintiff
defendant
federalism
original jurisdiction
en banc
retention vote
briefs

Objectives

When you have completed this chapter, you will be able to

- Name the judicial district in which you reside
- Describe the different levels of the courts in Iowa
- Identify the kinds of cases each court might handle
- Distinguish criminal cases from civil cases
- Compare felonies with misdemeanors
- Define the terms *original jurisdiction, federalism, and en banc* as they relate to the court system
- Explain how Iowa judges are selected

Eyes Open

1. Do you know when and by whom the Iowa court system was established?
2. Do you know what Iowa judicial district you live in?
3. Do you know how many counties are in your judicial district?
4. Do you know the names of any of the people who work in your district court?

••••••••••••••••••••••••••••••••

A runaway slave named Ralph entered into a written agreement to work in the Dubuque lead mines to earn $550 to pay for his freedom. When Ralph did not meet his payments, his Missouri owner sought to repossess Ralph and take him back to Missouri.

Fortunately for Ralph, the Iowa Territorial Supreme Court had just been organized (November 28, 1838) and In the **Matter of Ralph on Habeas Corpus** *was the very first case decided by the brand new chief justice and two associate justices.*

This first decision of the Territorial Supreme Court involved one of the most critical issues of the time, an issue which twenty-two years later led to the Civil War. The Iowa Territorial Court held that, since slavery was prohibited in Iowa, Ralph's owner could not reclaim him, and Ralph was a free man.

Eighteen years after **In the Matter of Ralph** *was decided in Iowa, the U.S. Supreme Court, in one of its most repugnant decisions, found in the* **Dred Scot** *case, contrary to the Iowa decision, that a slave did not became free by residing in a free territory. It is a matter of pride for Iowans that a humane and equalitarian tradition was established by our state's first court decision.*

••••••••••••••••••••••••••••••••

IOWA'S EIGHT JUDICIAL DISTRICTS

For purposes of administration, Iowa is divided into **8 judicial districts** and **14 judicial election districts**. The judicial election districts are for the purposes of nomination, appointment, and election of district judges as well as other personnel and administrative matters.

The number of district court judges in each judicial election district is determined by computing a statutory formula giving weight to two factors:

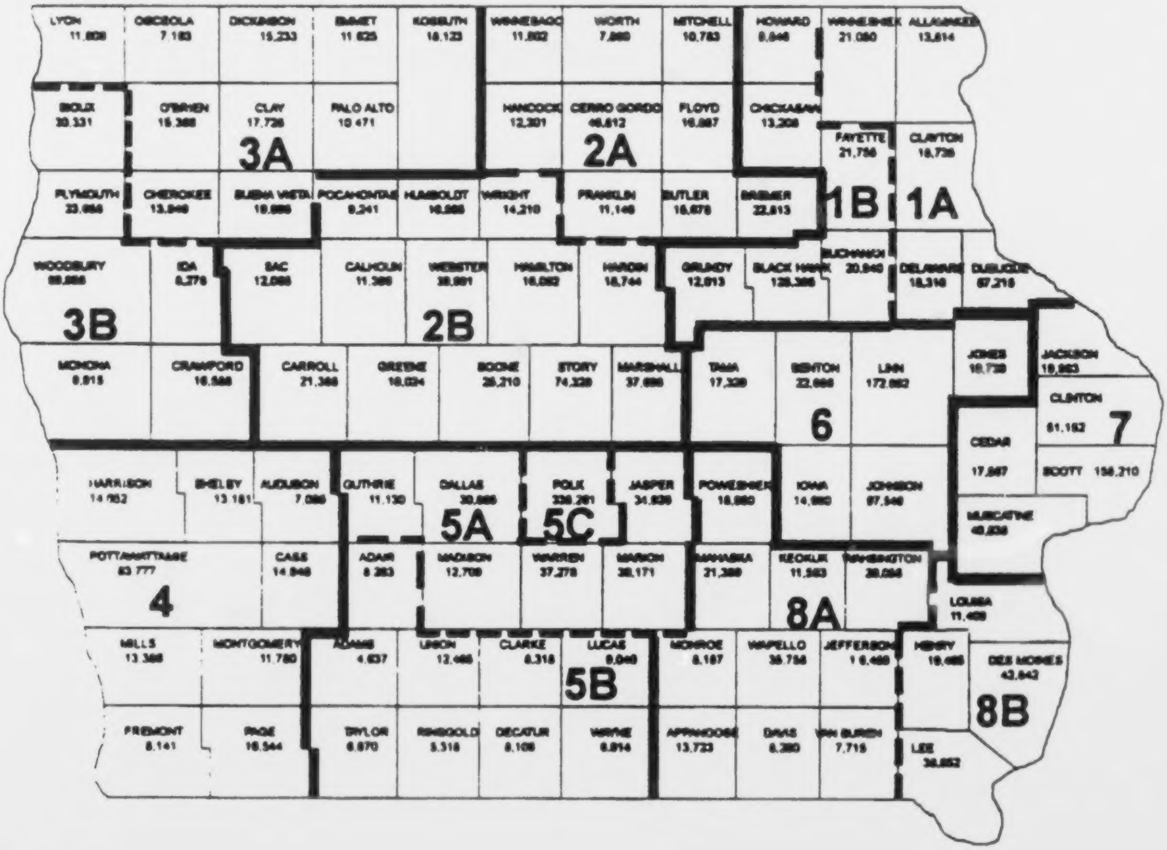
1) filings — a three-year average of combined civil and indictable criminal cases (including appeals of small claims and simple misdemeanors)
2) population — one judge for every 40,000.

20

IOWA'S EIGHT JUDICIAL DISTRICTS

Total Population: 2,802,944

First District	362.281	**Fifth District**	565,391
Second District	457,075	**Sixth District**	344,873
Third District	330,317	**Seventh District**	284,750
Fourth District	183,504	**Eighth District**	274,753


LYON
OSCEOLA
DICKINSON
EMMET
KOSSUTH
WINNEBAGO
WORTH
MITCHELL
HOWARD
WINNESHIEK
ALLAMAKEE
SIOUX
O'BRIEN
CLAY
PALO ALTO
HANCOCK
CERRO GORDO
FLOYD
CHICKASAW
FAYETTE
CLAYTON
3A
2A
PLYMOUTH
CHEROKEE
BUENA VISTA
POCAHONTAS
HUMBOLDT
WRIGHT
FRANKLIN
BUTLER
BREMER
1B
1A
WOODBURY
IDA
SAC
CALHOUN
WEBSTER
HAMILTON
HARDIN
GRUNDY
BLACK HAWK
BUCHANAN
DELAWARE
DUBUQUE
3B
2B
MONONA
CRAWFORD
CARROLL
GREENE
BOONE
STORY
MARSHALL
TAMA
BENTON
LINN
JONES
JACKSON
CLINTON
6
7
CEDAR
SCOTT
HARRISON
SHELBY
AUDUBON
GUTHRIE
DALLAS
POLK
JASPER
POWESHIEK
IOWA
JOHNSON
MUSCATINE
5A
5C
POTTAWATTAMIE
CASS
ADAIR
MADISON
WARREN
MARION
MAHASKA
KEOKUK
WASHINGTON
LOUISA
4
8A
MILLS
MONTGOMERY
ADAMS
UNION
CLARKE
LUCAS
MONROE
WAPELLO
JEFFERSON
HENRY
DES MOINES
5B
8B
FREMONT
PAGE
TAYLOR
RINGGOLD
DECATUR
WAYNE
APPANOOSE
DAVIS
VAN BUREN
LEE

The number of associate court judges and magistrates are determined by differing factors:

- The number of associate court judges is determined by county population
- The number of magistrates per county is determined by the state court administrator; however, the total number for the state cannot exceed 191.

BEST COPY AVAILABLE

Hands On

Check with your Clerk of Court to see how many district court judges, associate court judges and magistrates are assigned to your district court. Since the judges "ride the circuit," that is, they travel to the district courts within their district, they are not in your courthouse every day — unless you live in a large city. Find out the rotational schedule, what days they are in your district court and what kind of court business is conducted on what days.

Who Pays for Iowa Courts?

Trials within the judicial district are held in the county courthouses of the counties comprising the judicial district. While they are often called "county courts," they should properly be called **district courts.**

Keep in mind that the court system is a function of **state government**. The Iowa Supreme Court is located in the state capitol in Des Moines. However, the district courts are located in buildings owned and run by **county governments**. The employees of the court are paid by the State of Iowa. Most of the rest of the employees in the courthouse such as the county attorney, treasurer and auditor, are paid by the county from funds raised by the county.

In Iowa, county law enforcement, prosecution and jails are county-financed; the state operates the courts, public-defender, probation, parole and prison systems. Funding for the Iowa court system comes from the state's General Fund and costs only about two and a half percent of the total state budget (see Chapter 8 for more specifics on the court budget).

Heads Up

1. Is a citizen better served by a district court which serves only 5 counties as opposed to a district court which serves 22? What would be the advantages and the disadvantages of a geographically smaller district over a larger district?

2. Is a citizen better served by a district court which serves only 184,000 population (Fourth) to over 550,000 (Fifth)? What would be the advantages and the disadvantages of being in a judicial district with less population?

What Kind Of Cases Are Heard In District Court?

District courts in Iowa, unlike many other states, try all kinds of cases. Some states have special courts such as a probate court, family court, or juvenile court. But in Iowa, the district courts handle all types of cases.

Both **criminal and civil cases** are tried in district court. In a criminal case, the government, in its role of maintaining law and order, prosecutes someone accused of violating the public safety. Most of us think of criminal cases as those involving violence, such as murder, assault, rape, robbery or sexual abuse. But they also include fraud, drug offenses, racketeering, perjury (lying under oath), and other wrong-doing seen as a threat to society.

The list of crimes above are **felonies**. Felonies are major crimes and are punishable in Iowa by imprisonment for five years to life, depending on the class. Felonies are divided into four classes: Type A, B, C, and D with class A being the most serious. **Misdemeanors** are less serious criminal offenses punishable in Iowa usually by a fine or imprisonment of up to two years, or both. Misdemeanors are divided into three types: SIMPLE, SERIOUS AND AGGRAVATED.

Individuals accused of crimes are entitled to a trial by jury if they so choose. Juries of six to twelve persons are gathered, depending on the seriousness of the offense. In Iowa, the jury must decide unanimously that the defendant is guilty in order to convict.

APPENDIX C

CLASSIFICATION OF CRIMES
IOWA CRIMINAL CODE
(Chapters 701-728)

Class A Felony

Murder - First Degree	707.2
Sexual Abuse - First Degree	709.2
Kidnapping - First Degree	710.2

Class B Felony

Murder - Second Degree	707.3
Nonconsensual Termination (can be Class C)	707.8
Murder of Fetus Aborted	707.9
Sexual Abuse - Second Degree	709.3
Kidnapping - Second Degree	710.3
Robbery - First Degree	711.2
Arson - First Degree	712.2
Burglary -First Degree	713.2

Class C Felony

Conspiracy to Commit a Forcible Felony	706.2
Voluntary Manslaughter	707.4
Feticide	707.7 - 707.10
Nonconsensual Termination (can be Class B)	707.8
Attempt to Commit Homicide	707.11
Assault while Participating in a Felony - if serious injury	708.3
Willful Injury (serious)	708.4
Sexual Abuse - Third Degree	708.4
Detention in Brothel	709.7
Kidnapping, Third Degree	710.4
Child Stealing	710.5
Robbery - Second Degree	711.3
Arson - Second Degree	712.3
Possession of Explosive or Incendiary Materials or Devices	712.6
Burglary, Second Degree	713.3
Possession of Burglar's Tools	713.4
Theft, First Degree	714.2
False Use of a Financial Instrument	715.6
Criminal Mischief, First Degree	716.3
Computer Damage - First Degree over $5,000	716A.4
Computer Theft - First Degree value over $5,000	716A.10
Insurrection	718.1
Permitting Prisoner to Escape charged or convicted of Class A Felony	719.5
Assisting Prisoner to Escape charged or convicted of Class A Felony	719.6
Accepting Bribe	722.2
Gambling - First Degree	725.7
Abandoning Child or Disabled Person	726.3
Sexual Exploitation of Children	728.12

Class D Felony

Solicitation to Commit a Felony	705.1
Conspiracy to Commit a Felony other than a Forcible Felony	706.3
Involuntary Manslaughter (can be Aggravated Misdemeanor)	707.5
Assault while Participating in a Felony - if no serious injury	708.3
Administering Harmful Substances	708.5
Terrorism	708.6
Going Armed with Intent	708.8
Lascivious Acts with a Child	709.8
Violating Custody Order	710.6
Extortion	711.4
False Reports	712.7
Threats	712.8
Theft - Second Degree	714.2 (2)
Criminal Mischief - Second Degree	716.4
Computer Damage - Second Degree, damage $501 - $5,000	716A.5
Computer Theft - Second Degree, value $501 - $5,000	716A.11
Falsifying Public Documents	718.5
Escape from Custody - charged or convicted of felony	719.4
Permitting Prisoner to Escape - charged or convicted of public offense other than Class A felony	719.5
Assisting Prisoner to Escape - charged or convicted of public offense other than Class A felony	719.6
Furnishing Controlled Substance to Inmate	719.8
Perjury	720.2
Suborning Perjury	720.3
Felonious Misconduct in Office	721.1
Bribery	722.1
Unauthorized Possession of Offensive Weapons	724.3
Pimping	725.2
Pandering	725.3
Gambling	725.7
Incest	726.2
Nonsupport of Child or Ward under 18	726.5
Sexual Exploitation of Children	728.12
OWI - Third Offense and up	321.281
Drug Offenses	Ch. 204

Aggravated Misdemeanor

Accessory after the Fact (can be Simple Misdemeanor)	703.3
Solicitation to Commit an Aggravated Misdemeanor	705.1
Involuntary Manslaughter (can be Class D)	707.5

Assault with Intent to do Serious Injury	708.2
Spring Guns and Man Traps	708.9
Indecent Contact with a Child	709.12
Arson - Third Degree	712.4
Theft - Third Degree	714.2 (3)
Operating Vehicle without Owner's Consent	714.7
Fraudulent Practices	714.8
Criminal Mischief - Third Degree	716.5
Computer Damage - Third Degree, $101 - $500	716A.6
Computer Theft - Third Degree, $101 - $500	716A.12
Injuries to Animals	717.1
Impersonating a Public Official	718.2
Interference with Official Acts (can be Simple Misdemeanor)	719.1
Obstructing Prosecution	719.3
Compounding a Felony	720.1
Tampering with Witness or Juror	720.4
Bribery in Sports	722.3
Bribery of Elector	722.4
Bribery of Election Officials	722.5
Duress to Prevent Voting	722.8
Procuring Vote by Duress	722.9
Riot	723.1
Carrying Weapons	724.4
Application for Permit to Carry Weapons - false statement	724.17
Giving False Information when Purchasing Weapon	724.21
Receipt, Transportation and Possession of Firearms and Destructive Devices by Felons	724.26
Prostitution	725.1
Gambling - Third Degree	725.7
Protection Money	725.17
Collecting Gambling Debts	725.18
Sale of Hard Core Pornography	728.4
OWI - Second Offense	321.281

Serious Misdemeanor

Possession of a Controlled Substance	204.401(3)
Possession of Marijuana	204.401(3)
Duty to Preserve the Lift of the Fetus	707.10
Indecent Exposure	709.9
False Imprisonment	710.7
Reckless Use of Fire or Explosives	712.5
Theft - Fourth Degree	714.2(4)
Criminal Trespass with Injury or Damage over $100	716.8
Computer Damage - Fourth Degree $51-$100	716A.7
Computer Theft - Fourth Degree $51-$100	716A.12
Exhibitions and Fights (Animals)	717.3
Willful Disturbance	718.3
Escape from Custody - charge or convicted or misdemeanor	719.4
Malicious Prosecution	720.6
Misconduct in Office	721.2
Misuse of Public Records and Files	721.3
Interest in Public Contracts	721.4
Improper Voting	722.6
Misconduct by Election Official	722.7
Leasing Premises for Prostitution	725.4
Public Indecent Exposure	725.5
Keeping Gambling Houses	725.5
Exhibiting Deformed or Abnormal Persons	725.6
Promoting a Fight (Animals/Person and Animal)	725.11
Bigamy	726.1
Gambling - Fourth Degree	725.7
Pool Selling - Places used	725.10
Wanton Neglect of a Minor Child	726.6
Fireworks	727.2
Electronic and Mechanical Eavesdropping	727.8
Dissemination and Exhibition of Obscene material to Minors	728.2
Admitting Minors to Premises where Obscene Material is Exhibited	728.3
Public Indecent Exposure	728.5
OWI - First Offense	321.281

Simple Misdemeanor

Accessory after the Fact (can be Aggravated Misdemeanor)	703.3
Assault (other)	708.2
Harassment	708.7
Theft - Fifth Degree	714.2(5)
Criminal Mischief - Fourth Degree	716.6
Criminal Trespass	716.8
Unauthorized Access of Computer	716A.2
Cruelty to Animals	717.2
Computer Damage - Fifth Degree, $1 - $50	716A.8
Computer Theft - Fifth Degree, $1 - $50	716A.4
Harassment of Public Officers and Employees	718.4
Interference with Official Acts (can be Aggravated Misdemeanor)	719.1
Refusing to Assist Officer	719.2
Furnishing Intoxicants to Inmates	719.7
Use of False Process or Records	729.5
Profiting from Inmates	721.12
Unlawful Assembly	723.2
Failure to Disperse	723.2
Disorderly Conduct	723.4
Report and Record of Sales of Revolvers or Pistols - failure to make a report	724.15
Sale to Minors (weapons)	724.22
Permit to Purchase Required (weapons)	724.16
Duty to Carry Permit (weapons)	724.5
Minors in Billiard Rooms - Duty of Owner	725.13
Distributing Dangerous Substances	727.1
Abandoned or Unattended Refrigerators	727.3
Exposing persons to X-Ray Radiation	727.4
Obstructing Emergency Phone Calls	727.5
Falsely Claiming Emergency	727.6
Publication Required - telephone company	727.7
Transacting Business without a License	727.9
Hard Core Pornography Prohibited	728.4

Miscellaneous

A conspiracy to commit a misdemeanor is a misdemeanor of the same class.

Heads Up

What's the Crime?

1. Study the classification of crimes in Iowa given above.
2. Determine the crime you might be charged with if you...
    - A. kidnapped someone
    - B. possessed marijuana
    - C. lied during a trial
    - D. were arrested for the third time for drunk driving
    - E. bribed or tried to bribe a player to change the outcome of a game
    - F. left your elderly and wheelchair-bound father in a bus station
    - G. married more than one person at a time
    - H. tried to stop a police officer from making an arrest
    - I. set fire to a building

3. Would you change any of the classifications, i.e., make some crimes more serious and others less serious?

4. Make a classroom chart of crimes reported in your local newspaper. Categorize them as felonies and misdemeanors and list them as Simple, Serious and Aggravated. Continue doing this during the period of time you're working on these chapters. At the end of the period of time, analyze the information and draw at least three conclusions.
Use this information to 1) write an article evaluating crime in your community 2) lobby your legislators for some issue which might reduce crime.

In a criminal case, one party in the dispute is always the government, for it is the duty of government to create a safe environment for citizens by enforcing the law. The name of a criminal case might be *The State of Iowa v. Joe Doe.* The government will be represented by the county attorney, called a **prosecutor**. The accused is innocent until proven guilty, and the State has the burden of proving guilt. The prosecutor says that the government will prove that the other party committed the crime charged. The person charged (the defendant) says that he or she did not commit the crimes charged and that the government will have to prove that he or she did.

All other cases are civil cases, commonly called lawsuits. In a civil case, a private citizen or business "complains" that someone or some business has not met a legal duty or has violated a legal right. The person who makes the complaint is called a **plaintiff**. The party complained about is called a **defendant**. The individual or corporation who brings the suit (the plaintiff) may ask to be compensated for harm caused by someone else (the defendant).

Civil law commonly deals with breaches of contract, divorce, wills, torts, libel, slander and constitutional rights. The title of civil cases indicate the conflict is between businesses or individuals: *Joe Doe v. The XYZ Corporation* or *Joe Doe v. Joan Doe.*

Note: Chapters 4 and 5 deal more extensively with criminal and civil procedure.

SEAL OF THE JUDICIAL DEPARTMENT OF IOWA

Heads Up

Criminal or Civil?

Read the conflicts below, mark your answers in the columns to the left.

- A. are the cases Criminal (CR) or Civil (CV)?
- B. identify the prosecutor or plaintiff and the defendant by name.

CR or CV	Plaintiff	Defendant		
________	________	________	1.	The state of Iowa accuses Tim of murder. He says he's innocent.
________	________	________	2.	Mrs. Roe wants a divorce. Mr. Roe does not. Both want custody of the children.
________	________	________	3.	Sylvia claims Rick's car ran into her car and wants him to pay for car repair and her hospital bills. Rick says the accident was Sylvia's fault.
________	________	________	4.	Paula objects to the school principal searching her purse. She claims Ms. Watkins had no good reason to do it.
________	________	________	5.	The Iowa State Fair Board wants rock star Blazing Stone to pay damages for not honoring his contract to put on a concert at the state fair.
________	________	________	6.	Larry the Landlord says Theresa the Tenant owes him money for rent. Theresa says Larry has not made necessary repairs and the apartment is unsafe.
________	________	________	7.	Oscar claims that Larry the Landlord did not rent him an apartment because Oscar is black. Larry says the apartment was already rented.
________	________	________	8.	Hannah says she did not steal the radio, but the security guard at Matt's Electronics says he found it hidden at the bottom of a shopping bag Hannah was carrying.

In addition to trying criminal and civil cases, district courts have other important duties. The district courts hear cases involving

- termination of parental rights where children are abandoned or neglected by their parents
- hospital hearings to determine whether a person with mental health or substance abuse problems should be involuntarily committed to a mental hospital
- probate (estates of people who have died)
- juvenile cases of delinquency and children in need of assistance

While some states have separate courts for these types of cases, in Iowa the district courts hear all types of cases.

Eyes Open

1. What do you think is the most common criminal case?
2. What do you think is the most common civil case?

••••••••••••••••••••••••••••••••

NUMBER OF FILINGS IN IOWA'S EIGHT JUDICIAL DISTRICTS - 1993

	CIVIL	CRIMINAL
First District	7,588	10,085
Second District	9,881	10,520
Third District	7,355	11,017
Fourth District	4,737	4,311
Fifth District	16,378	17,175
Sixth District	7,329	9,614
Seventh District	8,239	6,750
Eighth District	6,737	6,372
TOTAL	68,244	75,844

••••••••••••••••••••••••••••••••

Heads Up

1. Is the percentage for civil and criminal filings about the same for your district as it is statewide?
2. In Iowa in 1993, there were 60,405 misdemeanor filings and 14,966 felony filings. Check with your Clerk of Court to compare the number of felonies and misdemeanors in your district with those statewide. Is your district typical?

APPELLATE COURTS

One of the unique aspects of American justice is the ability of someone who doesn't feel that the judgment of the lower court was fair can **appeal** the case to a higher court. Iowa has two **appellate courts**: the **Iowa Supreme Court** and the **Iowa Court of Appeals**.

The person might feel that the district court erred in ruling on admission of evidence or in the application of the law. Perhaps the person feels that the evidence presented did not support the decision. When legal grounds for the appeal exist, the person may appeal the case to the appellate courts.

The Iowa Supreme Court is the highest court in Iowa's judicial system. The Supreme Court may review both criminal and civil cases decided at the district court level. Decisions made by the Iowa Court of Appeals may also be reviewed by the Supreme Court. (It should be noted that decisions made by Magistrates can be appealed first to the District Court Judge, then on to the appellate courts.)

In addition, the Supreme Court has original juris**diction** in cases such as reapportionment, discipline of attorneys, and issuing temporary injunctions. **Original jurisdiction** means the court has the power to hear a case for the first time instead of waiting for the case to be tried in a lower court.

Almost all cases tried in Iowa's district courts can be appealed to the Iowa Supreme Court. The Iowa Supreme Court must accept most cases appealed to it, but it does have discretionary power to accept or reject some cases, such as a civil case involving less than $1,000. The district court hears appeals from magistrates' decisions.

The Iowa Supreme Court is called "the court of last resort" for most of the cases it hears. That means the case cannot be appealed to any other appeals court. However, if the case involves a federal question, it might successfully be appealed to the U.S. Supreme Court.

Cases on appeal are different than trials. The judges on the appeals court listen to arguments presented by the lawyers representing the parties in the case. There are no witnesses. There is no jury. Instead, the judges review what happened at the trial, listen to the oral arguments of the lawyers, examine the briefs filed by the lawyers and decide the case.

IOWA JUDGES

Supreme Court Justices

The Iowa Supreme Court is made up of nine members called justices. Usually (about 80% of the time), the Supreme Court makes decisions while divided into rotating five-member panels. Occasionally, all nine members of the Supreme Court will hear a case. This is called ***en banc***.

The supreme court justices are in the State Capitol usually only one week of each month. The remainder of the month six of the justices work out of offices in the courthouse of the county where they live. Does one of the Iowa Supreme Court justices work out of your county courthouse? Do any of the judges live in your county?

The members of the Supreme Court are appointed by the Governor from a list of three persons submitted by the State Judicial Nominating Commission. After being appointed by the Governor, new Supreme Court members are confirmed by Iowa's voters in ***retention elections*** the following year. Once confirmed, all members serve eight-year terms, then again are re-confirmed in a retention election. In retention elections, voters simply mark "yes" or "no" next to the name of each judge seeking another term.

In addition to the defeat by retention ballot, there are two ways all Iowa judges may be removed. The legislature has the power to impeach judges of both the supreme and district courts for any misdemeanor or malfeasance in office or for illness or inability. The Iowa Supreme Court can also retire judges for disability and to discipline or remove them for good cause.

Appeals Court Judges

The Supreme Court assigns cases each month to the **Iowa Court of Appeals**. The cases deal with well-established law and only the facts of the cases are in dispute. They may draw a line in a property dispute or divide assets in a nasty divorce. Lawsuits dealing with constitutional issues, policy disputes involving liberal or conservative issues, and critical questions heard for the first time are left to the Iowa Supreme Court. But what the Court of Appeals does vitally affects thousands of people, from prisoners who claim their lawyers were incompetent to mothers who battle to keep children taken by state social workers to dismissed workers attempting to collect unemployment insurance.

The six members of the Iowa Appeals Court are appointed by the Governor from a list of five nominees submitted by the State Judicial Nominating Commission. Like the Supreme Court members, judges from the Court of Appeals face retention elections the following year and at the end of their six-year terms.

District Court Judges (Trial Court Judges) hear a variety of cases including criminal matters, multi-million dollar law suits, domestic relations, adoptions, estates (probate), cases involving state administrative agencies, and juvenile cases. District judges can dissolve a marriage or end a strike.

Only in the counties with the largest populations is there one or more district judge in residence, i.e. who works out of only one courthouse. In most of the judicial districts, district judges rotate between courthouses within the judicial district. You may ask your Clerk of Court for a rotation list of judges for your district.

District Associate Judges hear serious and aggravated misdemeanor cases and civil suits for judgment of up to $5,000. District Associate Judges may also hear juvenile cases when they are designated as juvenile judges.

Associate Juvenile Judges hear cases involving children in need of assistance, termination of parental rights, juvenile delinquency (including waiver to adult court), and involuntary hospitalization of juveniles for substance abuse or mental illness.

Magistrates hear cases within their county of residence, although that area is sometimes expanded by order of a Chief Judge. Magistrates handle simple misdemeanors and civil suits for judgments of$4,000or less.

Senior Judges are retired judges appointed by the Supreme Court. They may work up to thirteen weeks per year until they reach the age of 78.

Heads Up

1. In many states all judges are elected rather than appointed. This was true in Iowa until 1963. The retention election is a remnant of that system. What problems do you suppose led the Iowa legislature to change the system? Would the quality of judges generally increase or decrease as a result of election rather than appointment? Would citizens perceive elected judges or appointed judges would be more fair?

2. Many voters know nothing about the abilities of the justices or that the Iowa Bar Association publishes endorsement or withholds endorsements of judges standing for endorsement. As a result, many voters either ignore the special judicial ballot or vote "yes"to retain judges. How might this problem be overcome?

• •

IOWA JUDICIAL APPOINTMENTS

Supreme Court Justices and Appeals Courts Justices are appointed by the Governor from a list of three persons and five persons, respectively, submitted by the State Judicial Nominating Commission. After being appointed by the Governor, new Court members are confirmed by Iowa's voters in **retention elections** the following year. Once confirmed, all Supreme Court members serve eight-year terms and Appeals Court justices six years before they face another retention vote.

District court judges are appointed by the Governor from a list of two candidates presented by a District Judicial Nominating Commission composed of an equal number of lawyers selected by members of the bar and laypersons selected by the Governor in each of eight judicial districts. The senior judge in the district serves as the chairperson of the commission. Like Appeal Court justices, District court judges serve six year terms.

District associate judges are nominated by County Magistrate Appointing Commission (composed of three chosen by the Board of Supervisors, two elected by the county bar; and a sixth member a district court judge designated by the chief judge of the judicial district.) and selected by the District Judges.They have four year terms.

Magistrates are appointed by County Magistrate Appointing Commissions and serve four-year terms.

• •

Judges may serve until age 72, if they are retained by the voters, although they may choose to retire at 65. Retired Supreme Court justices, court of appeals judges, district judges, and district associate judges may be named as senior judges. Appointed by the Supreme Court, Senior Judges may work up to thirteen weeks per year until they reach the age of 78.

STATE COURT ADMINISTRATIVE POSITIONS

Two administrative bodies assist the state appeals courts. The State Court Administrator's Office screens cases, writes case statements, gathers statistics, recommends the assignments of district court judges, plus numerous other administrative duties. The Office of the Clerk of Court (for both the Iowa Supreme Court and the Court of Appeals) prepares the courts' dockets, collects court fees, and records every opinion issued by the two appellate courts.

JUDICIAL BRANCH

SUPREME COURT

1. Shall be members of the bar of the state. Vacancies filled by gubernatorial appointment from a list of three nominees selected by the State Judicial Nominating Commission. Stand for retention every eight years.
    - A. One Chief Justice and eight Justices.
        - i. Hear appeals.
        - ii. Write opinions.
        - iii. Grant or deny motions and orders.
        - iv. Supervise and coordinate the operation of the district courts.
        - v. Prescribe rules of court procedure.
        - vi. Admit persons to the practice of law; regulate and discipline members of the bar.
2. Jurisdiction:
    - A. Appellate jurisdiction over decisions and orders of district courts.
    - B. Original jurisdiction in such cases as reapportionment, bar discipline, and issuance of temporary injuctions.
    - C. Discretion to grant an application for further review from a ruling of the Court of Appeals.

COURT OF APPEALS

1. Same qualifications and selection process as Supreme Court. Stand for retention every six years.
    - A. One Chief Judge and five Associate Judges.
        - i. Hear appeals.
        - ii. Write opinions.
2. Jurisdiction:
    - A. Hear cases transferred to the Court of Appeals by the Supreme Court.

JUDICIAL COUNCIL

1. Ten members including Chief Justice of the Supreme Court, eight Chief Judges of the judicial districts, and the Chief Judge of the Iowa Court of Appeals. Chief Judges are appointed by the Chief Justice, with the approval of the Supreme Court, for two-year terms.
2. Administers and supervises the Iowa district court.

DISTRICT COURTS

1. Five types of judicial officers: district judges, district associate judges, senior judges, associate juvenile judges, and magistrates.
2. State is divided into eight judicial districts, each district is headed by a Chief Judge. The Chief Judges exercise continuing administrative supervision within their respective districts over all judges, magistrates,

DISTRICT JUDGES

1. Appointed by the governor from a list of two nominees submitted by the district nominating commission. Stand for retention at general election every six years.
2. General trial court jurisdiction.

DISTRICT ASSOCIATE JUDGES

1. Nominated by County Magistrate Appointing Commission; appointed by district judges in the judicial election district. Stand for retention at general election every four years.
2. Same jurisdiction as magistrates, plus:
    - A. Civil actions for money judgments where the amount in controversy does not exceed $5,000.
    - B. All misdemeanors; felonies under §321.218(OWI).
    - C. Juvenile cases when designated as a judge of the juvenile court.

MAGISTRATES

1. Selected by County Magistrate Appointing Commission; four-year term.
2. Jurisdiction:
    - A. Initial appearance.
    - B. Preliminary hearings.
    - C. Search and arrest warrants.
    - D. Simple misdemeanors.
    - E. Small claims-money judgments or replevin actions of $2,000 or less; forcible entry and detainer actions.
    - F. Emergency detention and hospitalization proceedings.
    - G. Involuntary commitment and treatment [lawyer magistrate].
    - H. Marriage ceremony.

35

Potpourri

Either individually or with another person choose one of the activities below and share the results with your classmates.

1. What the are similarities and the differences between the appointment, numbers, terms and duties of the Iowa Supreme Court and the Iowa Court of Appeals?

2. Locate in newspapers or magazines examples of both trial courts and appeals courts.

3. Develop a scenario whereby a trial case becomes an appeals case.

4. You may want to select a case for a moot court. Ask your teacher to explain what a moot court is.

5. Who in your district court has the most interesting job? Defend your choice.

6. Which day of the week do you think would be the most interesting day to visit the courtroom? If possible, attend court that day. Your teacher willgive you assignments of things to do for your court visitation day.

7. Do you have a friend, neighbor or relative who works in the court system? Interview them to find out what they do and what they like about their job.

FEDERAL COURTS

Eyes Open

1. Can you think of a recent case that was tried in a federal court?

2. Do you know where in Iowa the courts of the Southern and Northern Districts are located?

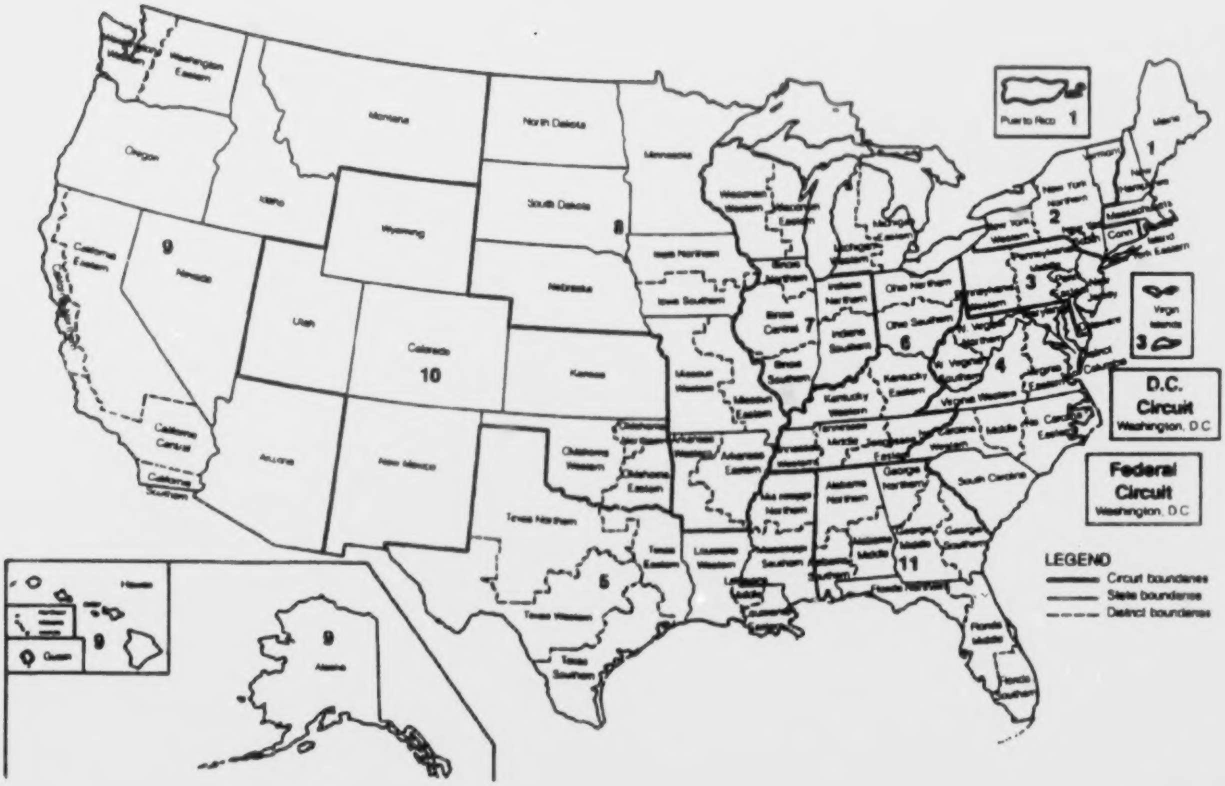
This unit is devoted to a study of the **Iowa State Courts.** However, there are also **Federal Courts.** Federal and state court systems operate in a parallel manner in the American justice system. The two kinds of courts are a result of a feature of our Constitutional called ***federalism*** which divides power between the federal government and the states. The federal powers to make laws are listed in the Constitution and the remaining powers are reserved for the states. As a result, most of our civil and criminal laws are passed by state legislatures or county or city councils. Consequently, many legal differences exist among the states.

Eighty **per cent (80%) of all cases are tried in state courts.** State law has the most direct effect on individual citizens in their daily lives such as the laws on voting, on marriage, on child custody, on schools, on traffic offenses, etc.

The United States is served by 13 regional federal judicial circuits. Iowa is part of the 8th Judicial Circuit, which is comprised of seven states: Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota and South Dakota. In Iowa there are two federal courts: the Northern District of Iowa and the Southern District of Iowa, with Highway 30 being the approximate dividing line.

THE THIRTEEN FEDERAL JUDICIAL CIRCUITS

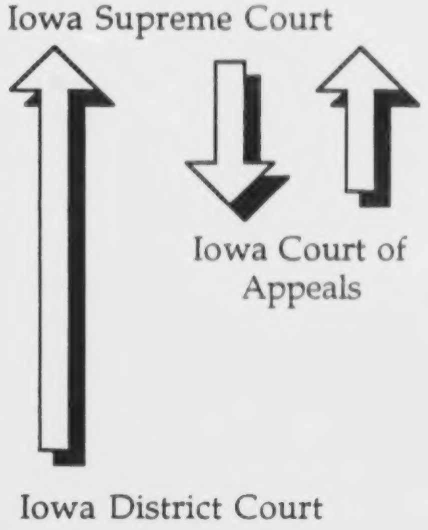
Why are some federal judicial circuits large and others are small geographically? How might the flow of history have influenced the creation of these districts?


Montana
North Dakota
South Dakota
Minnesota
Oregon
Idaho
Wyoming
Nebraska
Nevada
Utah
Colorado
10
Kansas
Arizona
New Mexico
Texas Northern
Texas Eastern
Texas Western
Texas Southern
5
8
9
7
6
4
3
2
1
11
Puerto Rico 1
Maine
Virgin Islands
D.C.
Circuit
Washington, D.C.
Federal
Circuit
Washington, D.C.
South Carolina
Hawaii
Guam
Alaska
LEGEND
Circuit boundaries
State boundaries
District boundaries

BEST COPY AVAILABLE

The Court System

Iowa (State Courts)



1. In Iowa, most cases begin in the Iowa District Court. Although there are over 100 judges, usually only one judge works on a case at one time. Iowa is divided into eight judicial districts.

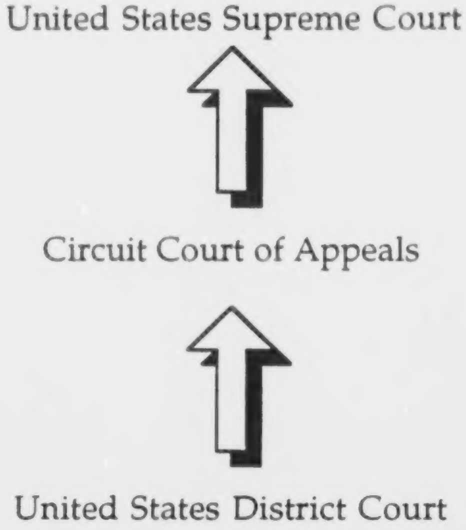
2. A party who is dissatisfied with a decision of the Iowa District Court may appeal to the Iowa Supreme Court.

3. All appeals are made to the Iowa Supreme Court. The Iowa Supreme Court may consider the case itself, or the Iowa Supreme Court may "transfer" the case to the Iowa Court of Appeals for consideration.

4. If a case is transfered to the Iowa Court of Appeals, the case is often considered by only three judges on the six-judge court. If a party feels that the decision of the Iowa Court of Appeals is in error, that party may seek "further review" from the Iowa Supreme Court. The Iowa Supreme Court has the option to deny further review.

5. If the Iowa Supreme Court hears the appeal (or if it grants further review), it is common for five justices of the nine-justice panel to consider the case.

United States (Federal Courts)



1. Most federal cases begin in the United States District Court. Iowa has five federal judges and two federal judicial districts. Only one judge considers a case at any one time.

2. A party who is dissatisfied with a decision of the United States District Court may appeal to the Circuit Court of Appeals. There are twelve circuit courts in the United States. Iowa is in the Eighth Circuit.

3. A party who is unsatisfied with a decision of the Circuit Court of Appeals may ask the United States Supreme Court to consider the case. The United States Supreme Court is entitled to select the cases which it will decide. In most cases, all nine Justices of the United States Supreme Court will consider the cases the Court decides to hear.

4. In most cases, a party may not appeal to the United States Supreme Court from the Iowa Supreme Court. The United States Supreme Court might entertain a case from the Iowa Supreme Court if the case involves an important question of constitutional or federal law.

GUIDE TO JURISDICTIONS OF STATE AND FEDERAL COURTS

	Major Type of Cases Handled
State	
District Court	• Misdemeanors (crimes punishable by less than 1 year in jail) • Aggravated misdemeanors (punishable by less than 2 years in jail) • Violations of municipal or city ordinances • Traffic violations • Civil actions (accidents and injuries, contracts, housing, family law) • Small claims actions not exceeding $2,000 • All cases relating to juveniles • Settlement of estates, wills, guardianships, involuntary hospitalization, and determination of incompetence • Divorces; child custody • Disputes involving titles and real property boundaries • Felony violations of law
Federal	
U.S. District	• Crimes against federal law, or involving interstate flight to avoid arrest • Violations of civil rights law • Civil actions in which the United States is either the plaintiff or the defendant • Bankruptcy actions • Actions involving Indian tribes or Indian lands • Disputes between persons from different states
Court of Claims	• Any claim against the United States over $10,000
Customs Court	• Civil actions over decisions by customs officers of the Customs office

Heads Up Which Court Has Jurisdiction?

Use the **Jurisdiction Guide** on the previous page to decide which court would handle the cases below.
Mark each situation either **State or Federal; if Federal,** further identify it as taking place in the **District Federal Court,** the **Court of Claims** or the **Customs Court.**

__________ 1. The town of Lakeview has a pedestrian safety ordinance which requires property owners to remove snow from sidewalks or the city will remove it and bill the property owner. Isabel has failed to shovel her sidewalk and refuses to pay the city's bill.

__________ 2. George died leaving a will which left everything to his daughter and nothing to his son. The son is contesting the will.

__________ 3. Tobin's roommate moved out, leaving a $380.00 telephone bill unpaid. Tobin wants to recover the money he paid for his roommate's bill.

__________ 4. An Iowa election official has been arrested for not allowing some minorities to register to vote.

__________ 5. Raphelo is arrested for trespassing (a misdemeanor).

__________ 6. A landlord wants to remove a tenant for failure to pay rent.

__________ 7. Juanita is arrested for shoplifting at the drug store.

__________ 8. Sonia wants to divorce her husband and get custody of her two children.

__________ 9. The Missouri River changes course, and Iowa claims the land formerly belonging to Nebraska is now within Iowa boundaries.

__________ 10. Dwayne claims he was falsely charged by a customs agent with possessing drugs.

__________ 11. Jerry is charged with murder.

__________ 12. Steve and Susan are dissatisfied with the roofing job Ace Roofers did and want Ace to pay them to have someone else do it over.

__________ 13. Rock star Kent sues *The National Enquirer* for libel.

__________ 14. Jill is arrested in Des Moines for stealing a car in Chicago.

__________ 15. The Johnsons file for bankruptcy of their farming operation.

__________ 16. Dick and Mary recently bought a house. They claim the owners failed to tell them that the basement is wet and the basement walls are in poor repair.

__________ 17. An Indian tribe sues the U.S. Forest Service for building a road through land they consider sacred.

__________ 18. Derrick's family wants him to receive treatment for substance abuse.

__________ 19. Julie, a seven-year-old child, is abandoned by her parents.

__________ 20. Marcy claims the neighbors' new garage extends onto her lot.

Mind Shaping Court Equality

You have been appointed as a teen advisor to a special commission set up to examine how equitably your district court treats women and minorities. In 1990 the Iowa Supreme Court established the Equality in the Courts Task Force to examine the state courts for gender, racial and ethnic bias. The 1993 report of the Task Force showed there was bias throughout the system which needed to be addressed.

Read a copy of the Task Force's Report Summary (available from the Iowa Center for Law and Civic Education at Drake University: phone 515-271-3205 to request a copy) Write an article on the findings of the Task Force. Do you observe in your district court the types of discrimination reported by the Task Force?
You may want to interview both court officials and people who use the court for their observations.

CHAPTER 3

IOWA'S COURT PERSONNEL AND SERVICES

Court Talk	Objectives
lien indigent	**When you have completed this chapter, you should be able to:** • identify governmental resources at local, county, state and federal level • identify the judicial personnel and the personnel in your Clerk of Court 's office personnel and their respective duties

Eyes Open

Do you think your name is on record at the courthouse? In how many places?
Can you list an event in your life when your name has been recorded in the courthouse? When it might be in the future? When you will want to or have to visit the courthouse to conduct business?

Hands On

Take a survey of 20 high school students and 20 adults to find out how much they know about the District Court and the Clerk of Court's office. Compare the knowledge of the two age groups.

1. Can you name any of the judges who serve in our District Court?
2. Can you name the Clerk of Court?
3. Can you name any of the personnel in the Clerk's office?
4. In which judicial district is our district court?
5. Name three duties of the office of the Clerk of Court.

Heads Up

SERVICES FOR CITIZENS

In your community there are many governmental resources you may not know about. Many of them are available at your county courthouse, but not all of those listed below are available at the courthouse. For this lesson you are to hunt down where these services are available. Are they provided by the town? the county? the state? the federal government?

1. Determine which governmental level you need to contact to obtain the service listed on the right. Is it a municipal, county, state or federal governmental service?

2. Indicate whether you would go to your city hall, the county courthouse, state government offices or federal government offices to obtain these services. IF IT IS A COUNTY FUNCTION, IDENTIFY WHICH COUNTY OFFICE YOU WOULD GO TO IN ORDER TO GET THE SERVICE.

3. Circle those services which you can obtain in the Clerk of Court's office.

MUNICIPAL, COUNTY STATE, OR FEDERAL?	IF SERVICE OFFERED IN COURTHOUSE, WHICH OFFICE?	WHERE DO YOU GO TO...
________	____________	obtain a marriage license
________	____________	become a citizen of the U.S.
________	____________	find out how you can commit yourself to a mental institution or drug treatment center
________	____________	find the current minimum wage
________	____________	file for worker's compensation
________	____________	file for dissolution of marriage
________	____________	obtain benefits for veterans

SERVICES FOR CITIZENS Page 2

MUNICIPAL, COUNTY STATE, OR FEDERAL?	IF SERVICE OFFERED IN COURTHOUSE, WHICH OFFICE?	WHERE DO YOU GO TO...
________	____________	obtain information on zoning regulations
________	____________	report a violation of a juvenile's probation
________	____________	register your boat
________	____________	get a fishing license
________	____________	file for adoption
________	____________	get a license for your car
________	____________	collect child support payment
________	____________	file for a name change
________	____________	pay fines on criminal cases
________	____________	obtain social security benefits
________	____________	get help for an elderly neighbor whom you believe can no longer care for himself
________	____________	register to vote
________	____________	apply for funeral expenses for an indigent veteran
________	____________	use the small claims court
________	____________	find the assessed value of your house
________	____________	record the title to your house
________	____________	get a no contact order for an abusive spouse/live-in
________	____________	report child abuse/neglect
________	____________	find federally approved low-income housing
________	____________	get child support from a divorced spouse
________	____________	apply for unemployment benefits
________	____________	obtain copies of a birth certificate
________	____________	pay a traffic ticket
________	____________	record a mechanic's lien
________	____________	obtain a passport
________	____________	locate an old family grave

SERVICES FOR CITIZENS Page 3

LIST THREE OTHER SERVICES AVAILABLE AT THE COURTHOUSE OR OTHER GOVERNMENTAL AGENCY

MUNICIPAL	COUNTY	STATE	FEDERAL

PEOPLE IN THE COURTHOUSE

It takes a team of professionals to run a modern courthouse. Among the many people working to administer justice in our state courts are

- **Judges and magistrates** who preside over trial and have the sworn duty of upholding the rights of all involved
- **Court Administrators** who ensure that juries are assembled and cases scheduled
- **Court Clerks** who maintain the permanent records of all court proceedings and exhibits
- **Court reporters** who record everything that is said in the courtroom and transcribe it. Their transcription is a precise and accurate account of court proceedings and is used by judges and attorneys during and after trial.
- **Librarians** who maintain courthouse collections of legal resources and law books
- **Translators** who convert proceedings and communications of one language to another for those who are fluent in English
- **Sign Language Interpreters** who aid those who are hearing impaired
- **Victims and Witness Services** personnel who provide assistance to those testifying in a trial
- **Staff attorneys and Law Clerks** who assist judges with research
- **Probation Officers** who monitor convicted offenders released under court supervision
- **Prosecutors** who are county attorneys representing the interests of the state
- **Public Defenders** who are attorneys that represent indigent defendants in criminal matters and **Legal Services** attorneys who represent low-income people in civil matters

Hands On

1. Using the list below, find the names of the judicial officers who serve your district court and the people who work in the Clerk of Court's office. Since each district court is different, you may find that your court does not have all of the types of positions listed.
THE LIST BELOW MAY BE INCOMPLETE.
Add other positions you find in your court, and delete those positions which don't exist in your district court.

2. Develop a list of interview questions about the work each of the following does and the educational and training qualifications needed for such a position.
Do any of these court personnel need state licensing to perform their duties? Are they elected or appointed or hired? Interview one of the people below and report on your findings. You might also try to arrange a day when you "shadow" that individual.

NAMES OF YOUR DISTRICT COURT PERSONNEL

CHIEF JUDGE ______________________________

DISTRICT JUDGE(S)

____

____

DISTRICT ASSOCIATE JUDGE(S)

____

____

SENIOR JUDGE

____

ASSOCIATE JUVENILE JUDGE ______________________________

MAGISTRATE(S)

DISTRICT COURT ADMINISTRATOR

CHIEF JUVENILE COURT OFFICER (FORMERLY PROBATION OFFICER)

JUVENILE COURT OFFICER(S) (FORMERLY PROBATION OFFICERS)

CLERK OF COURT

SPECIALISTS IN CLERK OF COURT'S OFFICE

COURT ATTENDANTS

COURT REPORTERS

TRANSLATORS

VICTIMS AND WITNESS SERVICES PERSONNEL

PROSECUTORS/COUNTY ATTORNEYS/ASSISTANT COUNTY ATTORNEYS

PUBLIC DEFENDERS

LEGAL SERVICES ATTORNEYS

OTHERS

LIBRARIANS

Mind Shaping

Some people are calling for the consolidation of courthouses. They say that the 99 county courthouses, built at a time when the courthouse was located so farmers could ride in one day to and from the county seat to pay taxes and not miss chores are wasteful and unnecessary in today's mobile world. They would close some of the courthouses and have regional courthouses.

Give pros and cons on regional courthouses. Consider the consequences of closing your district courthouse. Note: A study completed in September 17, 1994 by Iowa State University concluded that consolidation of court services would cost money rather than save it. Economist Mark Edelman and legal consultant Terry Raun conducted the study.

Set up a community forum to discuss this issue. Included should be the Clerk of Court, someone from the local Department of Human Services and/or the Juvenile Court Officer (who serves multiple counties), the Sheriff (who services only one county), a local business person, and some policy makers (mayor, Board of Supervisors or state legislators).

CHAPTER 4

IOWA'S CRIMINAL JUSTICE PROCESS

Court Talk

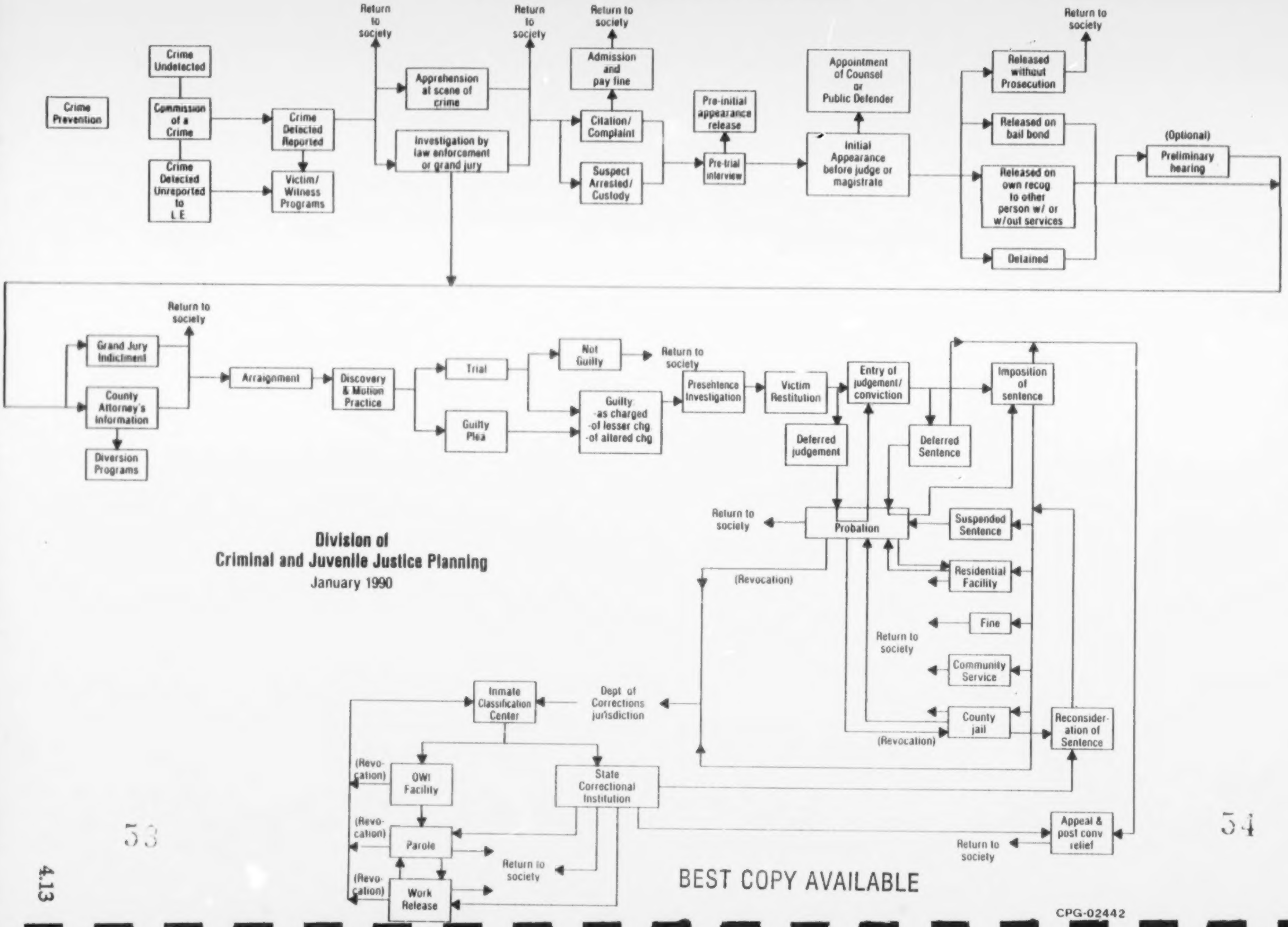
- criminal intent
- deterrence
- Miranda rights
- probable cause
- arraignment
- indictment
- bail
- booking
- justice
- plea bargaining
- reasonable doubt
- indeterminate sentencing
- mandatory sentencing

Objectives

When you have completed this chapter, you should be able to:

- identify situations as crimes by applying the four basic elements of a crime
- list the purposes of criminal penalties
- discuss the nature of criminals
- recognize the steps in the criminal process from arrest through sentencing
- explain the Iowa Crime Victim Compensation Program

IOWA'S CRIMINAL JUSTICE SYSTEM


Crime Prevention
Crime Undetected
Commission of a Crime
Crime Detected Unreported to L.E.
Crime Detected Reported
Victim/ Witness Programs
Return to society
Apprehension at scene of crime
Investigation by law enforcement or grand jury
Return to society
Return to society
Admission and pay fine
Citation/ Complaint
Suspect Arrested/ Custody
Pre-initial appearance release
Pre-trial interview
Appointment of Counsel or Public Defender
Initial Appearance before judge or magistrate
Return to society
Released without Prosecution
Released on bail bond
Released on own recog to other person w/ or w/out services
Detained
(Optional)
Preliminary hearing
Return to society
Grand Jury Indictment
County Attorney's Information
Diversion Programs
Arraignment
Discovery & Motion Practice
Trial
Guilty Plea
Not Guilty
Return to society
Guilty: -as charged -of lesser chg -of altered chg
Presentence Investigation
Victim Restitution
Entry of judgement/ conviction
Imposition of sentence
Deferred judgement
Deferred Sentence
Return to society
Probation
Suspended Sentence
(Revocation)
Residential Facility
Fine
Return to society
Community Service
County jail
(Revocation)
Reconsideration of Sentence
Inmate Classification Center
Dept of Corrections jurisdiction
(Revocation)
OWI Facility
State Correctional Institution
(Revocation)
Parole
Return to society
(Revocation)
Work Release
Appeal & post conv relief
Return to society

Division of Criminal and Juvenile Justice Planning
January 1990

BEST COPY AVAILABLE

CPG-02442

Hands On

What is *reasonable doubt?* There are several standards for determining responsibility for an action. In criminal cases, guilt is established *beyond a reasonable doubt.* In civil cases the standard is *by a preponderance of evidence.* Joseph Daly, a law professor at Hamline University of Law, St. Paul, MN designed this activity to help demonstrate these standards.

WHO STOLE THE COOKIES?

THE
COOKIES
ARE MISSING!

With this fact in mind, fill in the standard that fits the crime.

Not guilty **Guilty**

Suspicion

Clear and convincing evidence

Preponderance of evidence

Beyond a reasonable doubt

Q. Your 4-year old brother, Billy, is seen in the kitchen.

What standard?______________________________

Q. Billy is sitting at the table with a glass of milk and a happy face.

What standard?______________________________

Q. Billy has a glass partially full of milk, cookie crumbs on the table near his glass.

What standard?______________________________

Q. Billy has a glass partially full of milk, crumbs on his shirt and lap.

What standard?______________________________

Q. Same, but can see cookie in his mouth.

What standard?______________________________

Heads Up

If arrest is the first step in the criminal justice process, what are the succeeding steps? Iowa law prescribes that certain procedures be followed in criminal cases and guarantees certain rights of those arrested.

1. Using the information on the flow chart of Iowa's criminal justice system on page 4.13 and the information given on pages 4.11 and 4.12 on criminal actions procedures, arrange the following steps of the criminal justice process in the correct order after an arrest:

   arraignment
   initial appearance
   pre-sentence investigation
   pre-trial interview
   discovery
   indictment
   trial
   county attorney's information
   appeal to a higher court
   sentencing
   preliminary hearing
   pre-trial motion

2. Using newspaper articles you've gathered about the criminal justice process, find examples of each of the procedures above.

3. Gather a list of criminal case terminology in addition to those words listed under "Court Talk"

TRIAL PROCEDURES

Eyes Open

Thousands of court trials take place every day across the country and nobody notices. But if a celebrity is involved or there is a "high-profile" crime, a trial can become a media event.

Court trials can be compelling high drama. That's why trials are featured in so many movies and so many television shows.

1. List as many trials as you can which received an enormous amount of publicity. Why do you think the public was so interested in the trial?

2. List as many movies and TV programs as you can that you've seen which include a trial scene. How realistic do you think they are?

Steps In A Trial:

1. **Selection of a jury**
   Chapter Six will discuss how vital the right to a jury is, how a jury is selected and the role of the jury.

2. **Prosecutor's Opening Statement**
   The opening statement outlines for the jury what happened in the case and the evidence the prosecution intends to present during the trial.

3. **Opening Statement for the Defense**
   Usually the defense attorney follows the prosecutor's opening statement with a statement outlining the case for the defense. However, the defense attorney may delay it until after the prosecution presents all its evidence.

4. **Prosecution presents evidence**
The prosecutor presents material objects called **exhibits** (such as a knife, a letter, photographs, or a bloody shirt or the results of a DNA test), and questions witnesses it calls to testify (it is called **direct examination** when an attorney questions his own witnesses). Both testimony of witnesses and exhibits are trial evidence. Strict rules of evidence must be followed before either is allowed into the trial.

The following types of evidence are not allowed:

- **Rumors** - "Everybody knows that Mark stole the money."
- **Public opinion** - "Everybody believes that Mark stole the money."
- **Biased or prejudiced view** - "Mark has no ethics."
- **Hearsay** - Marcia told me that Mark stole the money." (some hearsay evidence is allowed into evidence under certain circumstances.
- **Irrelevant statements** - "Mark rides a motorcycle so well he wins races" (does not have anything to do with the crime)
- **Illegally obtained information** - If police break into Mark's house without a search warrant and seize the stolen money, the fact that the money was found in Mark's house cannot be used against him. This is called "*the exclusionary rule.*"

The defense may **cross-examine** any of the prosecution witnesses. *Cross-examine* means to ask questions of the witnesses of the other side to cast doubt about the believability of the witnesses or to find weaknesses in their testimony.

5. **The defense presents evidence**
Now it's time for the defense to present its witnesses and exhibits. The prosecutor may cross-examine the witnesses for the defense.

6. **The prosecution makes a closing statement.**
This statement summarizes the best evidence the prosecution has for finding the defendant guilty. It is the last chance the prosecution has of persuading the jury of the guilt of the defendant.

7. **The defense makes a closing statement**
The closing argument summarizes the evidence which has or has not been established during the trial. This is the last chance for the defense to persuade the jury of either the innocence of the defendant or of the mitigating circumstances which surrounded the crime and to cast doubt on the prosecutor's case.

8. **The prosecution may offer rebuttal argument**
The prosecution goes first and last in closing arguments. After the defendant's closing, the prosecution may try to disprove the arguments of the defense.

9. **Instructions to the jury**

The judge gives instructions to the jury which informs them of the specific law that applies to the case, reminds them that they must rely solely on the evidence admitted during the trial. The judge reminds the jury that it can find the defendant guilty only if the state has proved its case beyond a **reasonable doubt.**

10. **Deliberation by the jury**

The jury then retires to a jury room, selects a foreperson to lead their discussions, discusses the case and votes to find guilty or not guilty. When they have reached a unanimous vote, they notify the judge who calls the court back into session where the jury announces the verdict.

11. **Pre-sentence hearing**

If the defendant is found guilty, a pre-sentence hearing is held at which the judge gathers information about the defendant. In 1986 the Iowa Legislature amended the Iowa Code to allow the victim to file with the county attorney a victim impact **statement**, stating how this crime affected his or her life. This statement becomes part of the pre-sentence investigation report. These statements are usually read aloud in court. This information will help the judge decide the appropriate sentence. Why do you suppose the Legislature allowed the victim's impact statement to become part of the pre-sentence report? What effect might it have on sentencing? What effect might it have on the defendant?

12. **Sentencing**

The judge announces the penalty imposed upon the person who has been found guilty by a jury or who has pled guilty. The six criminal penalties imposed in Iowa are prison confinement, jail confinement, residential treatment, probation, fine, and community service. Deferred judgments and deferred sentences may also be given and normally involve some sort of correctional intervention during the period of deferral, usually supervised probation.

Iowa is one of forty states that use some form of indeterminate sentencing. In indeterminate sentencing systems, the judge sets upper and lower bounds on the time to be served by an offender while actual time served within those imposed limits is determined later by paroling authorities. All sentencings in Iowa are indeterminate except for Class A felonies.

Iowa, like 49 other states, has **mandatory sentencing laws** for certain offenders. Mandatory minimum sentences may be imposed in cases involving use of a weapon in the commission of a felony, habitual offenders, prior conviction for a forcible felony or a crime of similar gravity in other states, and certain drug offenses.

MAXIMUM SENTENCING UNDER IOWA CODE

The Iowa criminal code stipulates maximum sentences for various classes of felonies and misdemeanors, as follows:

Class A felony: Life imprisonment. Class A felonies are Murder - 1st (degree), Kidnapping - 1st, and Sexual Abuse - 1st.

Class B felony: Up to 50 years in prison for Murder - 2nd (degree); 25 year in prison for other Class B felonies, such as Attempted Murder, Arson - 1st, Burglary - 1st, Robbery - 1st, Kidnapping - 2nd, and Sexual Abuse - 2nd.

Habitual Offender: Up to 15 years in prison. Habitual offender sentences may be imposed when an offender has been convicted of felonies twice previously.

Class C felony: Up to 10 years in prison. Class C felonies include Arson - 2nd, Burglary-2nd, Robbery - 2nd, Voluntary Manslaughter, Delivery of Narcotic Drugs, Theft - 1st, Willful Injury, and other offenses.

Class D felony: Up to 5 years in prison for offenses such as Attempted Burglary, Criminal Mischief - 2nd, Delivery of Non-Narcotic Drugs, Forgery, Going Armed With Intent, Involuntary Manslaughter, Lascivious Acts With a Child, and Theft - 2nd; in cases of third or subsequent offense drunken driving, those sentenced to prison are diverted to community-based treatment facilities following prison admission and classification.

Aggravated Misdemeanor: Not more than 2 years in prison for offenses such as Assault With Intent to Inflict Serious Injury, Operating a Motor Vehicle Without Owner's Consent, Possession of a Firearm by a Convicted Felon, Prostitution, and Theft - 3rd degree; in cases of second offense drunken driving, those sentenced to prison are diverted to community-based treatment facilities following prison admission and classification.

Serious Misdemeanor: Not more than 1 year in jail. Offenses in this category include first-offense Drunken Driving, Trespass With Damage over $100, Indecent Exposure, Theft - 4th degree, Assault Without Intent, Eluding Law Enforcement, and other offenses. Serious misdemeanor convictions may result in a prison term in two situations: when an offender is also sentenced to prison for a felony or aggravated misdemeanor; or in cases where an offender is sentenced to two or more serious misdemeanors to be served consecutively, and the total imposed sentence exceeds one year.

Simple Misdemeanor: Not more than 30 days in jail. Simple misdemeanors are non-indictable state or ordinance cases, such as Simple Assault, Harassment, Intoxication, Cruelty to Animals, and traffic violations such as Speeding, Reckless Driving.

NUMBER OF CRIMINAL FILINGS AND DISPOSITIONS IN THE DISTRICT COURT DURING 1993 BY TYPE OF CASE WITH TOTALS COMPARED TO THOSE OF 1992

District	OWI (1st/2nd)		Other Indictable Misdemeanor		OWI (3+)		Other Felonies		Simple Misd. Appeals		Total	
	F	D	F	D	F	D	F	D	F	D	F	D
1	3,282	3,172	4,996	5,588	171	162	1,602	1,628	34	37	10,085	10,587
2	2,890	2,911	5,708	5,562	102	100	1,769	1,688	51	44	10,520	10,305
3	2,766	2,612	5,945	5,242	174	126	2,098	2,019	34	45	11,017	10,044
4	1,034	939	2,425	2,183	36	37	786	746	30	40	4,311	3,945
5	4,399	4,436	9,279	8,784	322	324	3,096	2,717	79	82	17,175	16,343
6	3,039	2,912	4,871	4,413	171	170	1,473	1,366	60	61	9,614	8,922
7	1,799	1,958	3,310	3,575	97	91	1,530	1,450	14	9	6,750	7,083
8	2,056	1,852	3,079	2,970	102	94	1,097	1,069	38	42	6,372	6,027
Statewide												
1993	21,265	20,792	39,613	38,317	1,175	1,104	13,451	12,683	340	360	75,844	73,256
1992	20,353	19,419	37,430	34,924	1,124	1,148	12,880	12,631	440	447	72,227	68,569

Legend
OWI - operating while intoxicated
Other Indictable Misdemeanors
- includes serious and aggravated misdemeanors other and OWI.

BEST COPY AVAILABLE

VICTIMS OF CRIME

For many years the entire emphasis of the judicial system was on punishing the criminals without paying much attention to the victims of crime. Crime can have a dramatic impact on the lives of victims or the families of victims:

- loss of money and/or possessions
- physical injuries which require sometimes long, painful and expensive hospital treatment
- a recovery period during which wages are lost, jobs may be lost and/or caretakers hired to care for their children
- psychological trauma which requires extensive treatment
- fear and loss of trust in others
- in murder cases, funeral expenses and loss of lifetime wages
- expectations by the justice system that they will appear in court whenever and wherever it suited the court, regardless of the hardships this caused the victim

Beginning in the late 1970s, citizen groups began pushing for reforms in the criminal justice system which would provide some support and financial compensation for victims, and make the court system pay attention to the needs of the victim.

In response to the urging of the victims rights advocates, including women's groups who were concerned about helping victims of domestic violence and rape, Congress passed the Victim and Witness Protection Act of 1982 which had three main goals:

1) to protect crime victims and witnesses in the criminal justice system
2) to ensure that in federal cases the government does all it can to help victims and witnesses without infringing on the defendants' constitutional rights
3) to serve as a model for legislation for state and local governments

In 1983 the Iowa Organization for Victim Assistance (IOVA) was formed. They are an organization of victims/witnesses of crime, and concerned citizens and agencies. Their purpose is to educate citizens regarding victim rights issues in Iowa. They can be reached at P. O. Box 6023, East Des Moines Station, Des Moines, IA 50309.

Iowa Victim Compensation Program

In 1986 the Iowa legislature set up the Iowa Crime Victim Compensation Program which helps victims with costs related to crime injuries. Program costs are paid entirely by criminal fines and fees and not by Iowa's taxpayers.

Victims who have been physically or emotionally injured in a violent crime , victims of drunk driving, hit and run, reckless driving, vehicular homicide, or when a car is used as a weapon; survivors of a homicide victims; and Iowans injured by violent crime in a state without a compensation program may all get help.

Requirements to receive compensation are that victims must report the crime to local law enforcement within 72 hours, file an application with the program within two years of the crime, cooperate with law enforcement officers in the investigation, not have consented to, provoked, or incited the crime, and must not have been assisting in, or committing a criminal act causing the injury.

Costs that victims may recover include

- medical or nursing care needed for crime injuries up to $10,500
- crime related counseling up to $3,000
- wages lost
- loss of support for dependents of deceased victims or victims who can't work
- funeral and burial costs, grief counseling for families of victims
- cleaning the homicide location in a home
- replacing clothing and bedding held as evidence by law enforcement

The Code of Iowa authorizes victims to file a signed victim impact statement with the county attorney to be included in the pre-sentence investigation (PSI) report. If a PSI is not ordered, the statement is provided to the court prior to sentencing. This statement assists the court in determining the appropriate sentencing order, including victim restitution.

The statement contains the following information:

1. The identity of the victim of the offense;
2. An itemization of economic losses suffered by the victim as a result of the offense;
3. A description of any physical injury suffered by the victim as a result of the offense;
4. Changes in the victim's personal welfare or family relationships as a result of the offense;
5. Any request for psychological services; and
6. Other information relevant to the impact of the offense.

Mind Shaping

A. Select a real-life crime from the newspaper.

B. Synthesizing what you've learned about the Iowa criminal justice system, write a narrative identifying how the criminal justice system in Iowa would deal with this crime step by step from arrest through sentencing.

C. Include a victim impact statement from the viewpoint of the victim, showing how the crime affected you and others.

D. Use a minimum of 10 of the terms from the Court **Talk section** at the beginning of this chapter. If you use the terms in a correct fashion in describing how your crime might be dealt with by the Criminal Justice System, then you will earn a "1." If the terms are not used or are used incorrectly, then you will be given a "0." IMPORTANT: WHEN YOU USE EACH TERM, WRITE IT IN A DIFFERENT COLOR OR USE HIGHLIGHTER. A believable, complete and well-written victim impact statement will earn a "1."
A less complete, unbelievable or poorly written statement will be given a "0." Your project will be assessed by both peer and teacher. A peer will read your account, score your paper as shown below, and make a comment. The teacher will also read the paper and make any adjustments necessary.

10-9 = Mastery of Subject

8 - 7 = Competent

6 - 1 = Unsatisfactory

Eyes Open

1. Describe your conception of a criminal:
   "When I think of a criminal, I think of...."

2. List as many crimes as you can think of.

3. Can you think of any crimes that involve **failure to act**?

4. What do you think is the most common violent crime (murder, forcible rape, robbery*, aggravated assault) in Iowa? the most common property crime (burglary*, larceny*, motor vehicle theft) in Iowa? Which is the most frequent crime?

5. How do you think Iowa's crime rate compares with other states?

6. What happens to a person after s/he is arrested? That is, what are the next steps that the law says must be followed?

* look up in the Glossary the difference between robbery, burglary, and larceny

Use this space to draw a picture of a criminal.

WHAT IS A CRIME?

A crime is an act committed or omitted in violation of a public law forbidding or commanding it. It can also be defined as any social harm made punishable by law.

Most crimes have four basic elements:

1) **an act prohibited by law**, such as murder or, less frequently, failing to act, such as failure to provide care for a child

2) **criminal intent**. Punishment is usually imposed only on those with a guilty *mind*. The criminal intent required for most crimes usually falls into one of four categories:

    A) **Specific intent.** — the person did it on purpose. The result is what the person intended. To prove theft, for instance, the prosecution must prove not only that Joe stole John's tractor but that he did not intend to return it.

    B) **General intent** — the person either knew the result would happen or should have know it very likely could happen. For instance, when Olivia shouted "Fire!" in a crowded theater, she may not have intended for Jose to be trampled to death in the ensuing panic, but she must have known that someone could die.

    C) **Criminal negligence** - though not acting intentionally, the person acts with an extreme lack of care. Bob gets drunk, runs a red light, crashes into a car, killing Sam.

    D) **Strict liability** - anyone doing the act is guilty regardless of intent — no mental state is required at all. Philip, believing he is divorced from his first wife, remarries and is charged with bigamy.

3) **concurrence of the act and the intent**. The person has to intend the act at the same time he or she commits it. Mary threatens to harm Marjorie because of something Marjorie said about Mary. Some months pass and Mary invites Marjorie over for a picnic dinner. Marjorie dies of salmonella poisoning. Did Mary murder Marjorie, or was her death accidental?

4) **causation.** The result must be caused by the act (for instance, in C. above, Sam was suffering a fatal heart attack when his car was hit by Philip, so Sam's death was not the result of the crash.)

Hands On

Elements of a Crime

Break into groups of four. Read the five cases that follow and determine if each meets the elements for a crime: 1) a prohibited act 2) criminal intent and what kind 3) concurrence of the act and the intent 4) causation.

One person in each group shall be assigned one of the criteria for each crime. Small groups shall report to the large group to discuss and compare their answers.

Case One

Bill is jealous of his friend Ray because he thinks Ray flirts with Bill's girlfriend Christina. One evening at a local bar where the three of them are sharing a table, Bill returns from the restroom to find Ray dancing with Christina. Bill flings Christina away from Ray and punches Ray in the face. The bartender calls the police who charge Bill with assault.

Case Two

Sean, the manager of the DaisyFresh meat processing plant orders that the three side entrances of the factory be locked in order to prevent employee theft. Employees are permitted to leave only by the main entrance. The plant catches fire and seven employees die in the fire because they could not escape through the locked doors. The company manager is charged with voluntary manslaughter.

Case Three

Toni, a champion roller skater, is charged with conspiracy to assault Nadaya, a rival roller skater. Toni's husband testifies that Toni promised $5,000 to Derek if Derek would prevent Nadaya from skating in the national competition.

Case Four

Wayne shoots Justin during a robbery. Justin is taken to a hospital for surgery to remove the bullets. A week later Justin dies in the hospital of a strep infection. Wayne is charged with murder.

Case Five

Lisa is shopping in a store at the mall where she frequently shops. She tries on a sweater, does not remove it but puts her coat on over it and leaves the store. A security guard catches her, and she is charged with shoplifting.

WHO IS A CRIMINAL?

Our laws are based upon what behavior society believes should be prohibited or encouraged. The legislature and the courts try to put these beliefs into laws. In regard to criminal law, they must decide how to encourage people not to commit an act or encourage them to comply with the law. Usually in criminal law, society tends to regulate conduct by the threat of penalties rather than by trying to encourage certain activity. For example, it would be impossible to reward someone with a dime every time he or she stopped at a red light. Rather, if a person does not stop, society punishes him or her by issuing a traffic ticket.

Five possible purposes of criminal penalties are

1) **protection of society** - jailing a criminal keeps him/her away from society

2) **punishment** - make the person regret his crime by imposing some kind of penalty upon him: jail terms, fines, community service, probation, suspended sentence or a combination of these. In some countries corporal punishment is used.

3) **deterrence** - others who either know about the possibility of punishment or have seen others being punished will not commit similar acts themselves

4) **rehabilitation** - with proper care and assistance, some people who commit crimes can be transformed into useful members of society

5) **retribution** - punishment in return for the criminal's evil deed; revenge

Eyes Open

Which of the five purposes for imposing penalties on criminals do you believe is the most important? Rank the five purposes from most to least important.

Your response to the above question may be governed by your perceptions about the nature of criminals and of crime. Read the article on the following page and compare this information with your perceptions.

THE NATURE OF CRIMINALS

"There is a common belief that the general population consists of a large group of law-abiding people and a small body of criminals. However, studies have shown that most people, when they are asked, remember having committed offenses for which they might have been sentenced if they had been apprehended.

"Such persons are part of the 'hidden' offender group. At one time or another, a large number of our population found themselves in situation that led them to violate the criminal law. However, most people do not persist in committing offenses. For many the risk of arrest and prosecution is deterrence enough, while others develop a stake in a law-abiding way of life in which their youthful indiscretions no longer have a place.

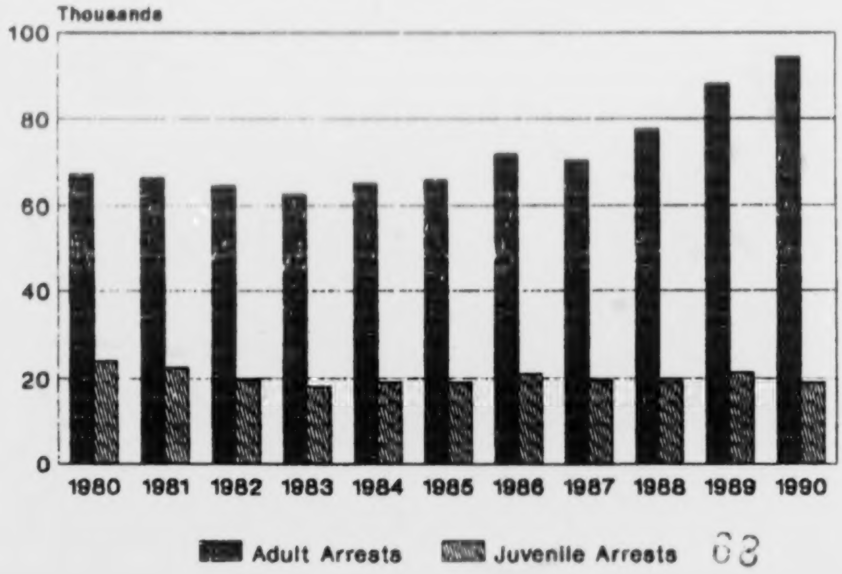
"The criminal justice process may be viewed as a large-scale screening system. At each stage it tries to sort out the better risks to return to the general population. The further along in the process that a sample of offenders is selected, the more likely they are to show major social and personal problems.

"From arrest records, probation reports, and prison statistics, a portrait of the offender emerges that progressively highlights the disadvantaged character of his life. The offender at the end of the road in prison is likely to be a member of the lowest social and economic groups in the country, poorly educated and perhaps unemployed, married, reared in a dysfunctional family, and to have a prior criminal record."

—Excerpt of the President's Commission on Law Enforcement
and the Administration of Justice, 1967

Though the above statement is almost thirty years old, the majority of criminologists today endorse the statement. The public, however, has not fully adopted the notion that the roots of crime are not so much in the individual as in the society. Perhaps this is because, as Clemens Bartollas, a sociology professor at the University of Northern Iowa recently said, "The alternatives to gangs and drugs are tremendously expensive: job programs for youth, grants for minority businesses, scholarships to help inner

TOTAL ARRESTS OF JUVENILES & ADULTS



Source: Iowa Uniform Crime Reports

Hands On

WHICH OF THESE PEOPLE ARE CRIMINALS

Directions: Working independently, place the letter identifying each of the people described below at the point on the continuum line which best represents your judgment of whether that person is likely to be engaged in criminal behavior.

Your teacher will put you in a group of three people to compare your answers. The group will try to come to a consensus. Each group will report their decisions to the class as a whole.

MOST LIKELY NOT A CRIMINAL ACTIVITY | MOST LIKELY IS A CRIMINAL ACTIVITY

1. A man who every week loses money at the track and can't pay his bills.
2. A teenager sells crack cocaine and uses the proceeds to support his mother who is on welfare.
3. A woman who does not return the extra $10 the cashier gave her.
4. A physician who sets up a clinic and performs abortions.
5. A woman who fails to pay her income tax.
6. A man who beats up another man.
7. A man who beats up his wife.
8. A youth who shoplifts a CD from a store.
9. A friend of the youth observes the shoplifting but does not report it.
10. A company which dumps pollutants into the river.
11. An individual who gets drunk regularly.
12. A woman hits a child while speeding through a school zone.

HOW SAFE A PLACE IS IOWA? DOES GROWTH OF THE PRISON POPULATION MEAN WE'RE HAVING MORE CRIME?

Iowa is safer than many other places to live. In October 1993 the FBI (Federal *Bureau of Investigation)* reported that, though violent crime has increaed in Iowa, in 1993 Iowa ranked 41st out of the 50 states in the number of crimes per 100,000.

Nationally, the percent of households reporting crime has dropped steadily since 1975 when 32.1% reported crime. In both 1988 and 1989, 24.6% of households reported crime; in 1990, 23.72%; in 1991, 23.7%; in 1992, 22.6%.

Though public perception is that crime is increasing, statistics kept by the FBI do not support this view. While overall national crime rates have been dropping (with the exception of aggravated assault, largely because of a new definition of domestic assault), the level of violent crime has remained essentially the same since 1990.

Violent crime by juveniles, however, has increased. While the average number of murders annually in the United States remains right around the 21,000 mark, the number of those murders committed by juveniles has increased. Whereas juveniles in 1984 committed about 1,700 or 8% of the 21,000 murders, in 1994 juvenile committed 3,200 murders or 15% of all murders. Though the number of murders by juveniles has almost doubled, the percent of murders by juveniles has risen by only 7%.

IOWA COMPARED NATIONALLY

1993 FBI Uniform Crime Report
Based on Iowa population of 2,814,000 and U.S. population of 257,908,000

	Iowa Number	Iowa Rate/100,000	U.S. Number	U.S. Rate/100,000
Violent Crime	9,159	325.5	1,924,188	746.1
1. Murder	66	2.3	24,526	9.5
2. Armed Robbery	1,517	53.9	659,757	255.8
3. Forced Rape	686	24.4	1,048,065	40.6
4. Aggravated Assault	6,890	244.8	1,135,099	440.1
Property Crime	**99,080**	**3,521.0**	**12,216,764**	**4,736.9**
5. Larceny	77,148	2,599.4	7,820,909	3,032.4
6. Burglary	20,562	730.7	2,834,808	1,099.2
7. Auto Theft	5,370	190.8	1,561,047	605.3

What is the most prevalent violent crime in Iowa? the most prevalent property crime? Are these crimes the same ones that are most prevalent across the nation: How much safer from murder are you in Iowa than in the national as a whole? How much safer from auto theft in Iow than in the national as a whole?

Despite the dropping crime rate, the Iowa prison population has soared by over 60% from 1988 to 1994 when a cap on the state's prison population was lifted because of complaints that dangerous criminals were receiving early paroles. .Today the Iowa Parole Board meets annually with over 3,800 inmates to consider shortening their sentences. Not all are paroled, but of those who are, about one-third will return to prison, having gone through the court system once again. Many criminal sentences in Iowa are immediately halved for good time. The Parole Board releases many inmates after they have served only a percentage of their remaining shortened term. A 25-year sentence for armed robbery actually averages 68 months; a 10-year sentence for a crime against a person, 30 months, and a 5-year sentence for theft of $2,500, 10 months.

Despite the shortening of sentences, Iowa has the third largest growing prison population among the 50 states. In 1988, Iowa's prison population was 3,000. Iowa's prison population 1994 was around 5,000 inmates (prison populations vary from day to day). *The Des Moines Register* reported that on August 16, 1994, Iowa prisons held 5,139 inmates in space designed for 3,603 prisoners. Construction of a 750-bed prison at Clarinda was approved by the 1994 legislature, and the 1995 legislature approved a committee to report in 1996 on other sites for another prison. However, at the present rate of incarceration in Iowa, another 8,000 people will be sentenced to state prisons during 1994 and 1995.

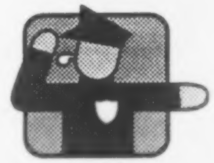
What does Iowa's incarceration rate compare? Iowa has 157 prisoners for every 100,000 of its population. The national rate is 330 (up from 170 in 1982). In surrounding states, the figures are: Illinois - 267; North Dakota - 65; South Dakota - 206; Wisconsin - 180; Minnesota - 84. It should be noted that many Americans believe that putting more people in jail is the most effective remedy to crime, while failure to do so is popularly supposed to be the most identifiable cause of the problem. However, while many people want to "get tough on crime," there is little evidence the taxpayers wish to spend more money for prisons for additional prisoners. Other resources are in short supply in the Iowa prison system, such as counseling for drug and alcohol programs and employment training courses.

What do prisons cost Iowa? Iowa now spends about $19,300 annually for every prisoner. The Iowa Department of Corrections also has about 18,500 people in community corrections programs, such as parole, probation, pre-trial release and community facilities.

Iowa's soaring prison population is mirrored in the rest of the country. In the past fifty years, the United States has dramatically increased its prison population. A comparative study of world crime and prison populations shows that among the nations which keeps such data, the United States is both the most violent nation and the nation which incarcerates more of its citizens.

After reading the figures above, what conclusions do you have about the effectiveness of incarcerating more people as a means of reducing the crime rate and making people feel safer? Should we begin to address the causes of crime and attempt to prevent crime?

WHAT HAPPENS WHEN YOU'RE ARRESTED?



"You're under arrest!" Those words are sometimes but not always the first step in a process which may lead to a trial to determine the guilt or innocence of the person involved. Before the arrest, an investigation may have taken place and an **arrest warrant** issued.

Arrest is the detaining or taking of a person into custody under authority of law. If an officer were to stop someone and detain him or her for a long period of time, this could constitute an arrest as well as telling the person, "You're under arrest." The detaining of the person alone could entitle the person to Constitutional rights such as the ***Miranda rights**** which police must announce to the person under arrest:

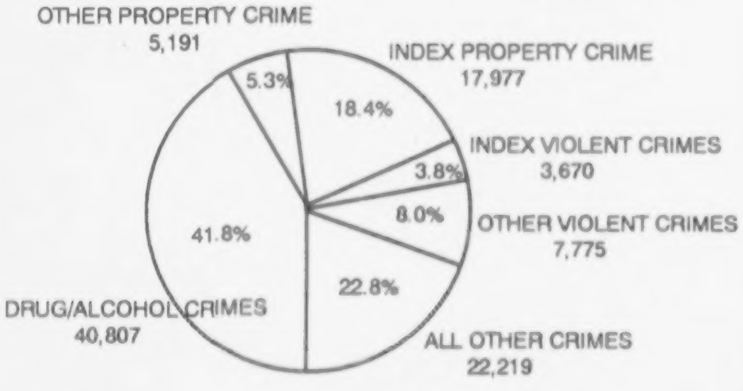
- You have the right to remain silent. Anything you say can be used against you in court.
- You have the right to a lawyer and to have one present while you are being questioned.
- If you cannot afford a lawyer, one will be appointed for you before any questioning begins.

*** Find out why these are called *Miranda rights.***

Under what circumstances may someone be arrested? The arresting officer must have **probable cause;** the officer must have a valid warrant or, if the officer does not have a warrant, s/he must be certain that the arrest is made in a situation which is recognized as one of the exceptions to the Fourth Amendment warrant requirements. *Probable cause* means that the officer has enough facts and circumstances to cause a reasonable person to believe that a crime was committed and that the suspect committed it.

May anyone arrest someone? Usually only law enforcement officers may perform an arrest; but under Iowa law, citizens may arrest other citizens if they observe a crime being committed. Under certain circumstances, both law officers and civilians may be sued for false arrest by the individual arrested.

TOTAL ARRESTS BY OFFENSE TYPE
1988



Percentage of Reported Crimes Cleared by Arrest
1988

Murder	87%
Aggravated Assault	65%
Forcible Rape	41%
Robbery	29%
Motor Vehicle Theft	27%
Larceny	19%
Burglary	12%

Source: Iowa Uniform Crime Reports

CRIMINAL ACTIONS PROCEDURE

Criminal actions procedures vary from state to state. The basic procedures used in Iowa are listed below:

Initial Appearance. After a person is arrested for committing a crime, he or she appears before a magistrate, district associate judge or a district judge within 24 hours. At this time, the person under arrest is informed of the charges and **bail** or conditions of release are set. In some serious cases, Iowa law prohibits release on bail. Sometimes the court accepts the promise of the accused that s/he will appear for trial. This is called being released on one's own **recognizance.**

Preliminary Hearing or Trial Information. Not later than 10 days if in custody and not later than 20 days if not in custody, the accused person may receive a preliminary hearing before a district or district associate judge. The purpose of this hearing is to determine if there is sufficient evidence to continue the case. Usually, the accused will waive (give up) the right to this hearing or the county attorney will file the appropriate trial information which is a formal statement of charges. If a preliminary hearing is held and the court finds probable cause to hold the defendant for further proceedings, the case will be set for trial.

NOTE: **Grand jury.** Few criminal cases in Iowa are heard by grand juries, but Iowa law does allow them. More often, the county attorney will file a trial information described above. The trial information and the indictment of a grand jury have the same effect, which is the beginning of formal proceedings in the district court. A grand jury is a panel of seven citizens who decide whether to return an indictment. If at least five of the seven feel there is enough evidence to bring the accused to trial, they indict or present the case to the court for filing.

Arraignment. After the indictment or the filing of an information, the defendant appears before a judge or magistrate for an arraignment. The arraignment takes place within 45 days of the date of arrest. At the arraignment, the defendant hears the charges and enters a plea, which is generally either guilty or not guilty.

The judicial officer will take one of three actions: dismiss the case, accept the not guilty plea, or accept the guilty plea. If the guilty plea is accepted, the judge will either announce the sentence (which may be a fine, jail or prison, probation and/or treatment) or order that a pre-sentence investigation be conducted and set sentencing in 6 - 8 weeks, . If a judge is unconvinced of a defendant's guilt, the judge will require a trial.

Trial. Most *criminal cases are never brought to trial.* Instead, they are disposed of by **plea bargaining**. Plea bargaining is negotiation between a prosecutor and a defendant and his or her attorney in which a guilty plea is exchanged for a lesser charge or a lesser sentence. Though plea bargaining is decried by some, without it the court system would be completely overrun. If all cases went to jury trials, we would have to build many times the number of courtrooms and hire many times the number of personnel who make the justice system work.

If the defendant pleads not guilty, a trial is set. The defendant has the right to a trial by jury. If a jury is not requested, a bench trial is scheduled. In a bench trial, the judge will hear the evidence and render a verdict.

If a jury is requested, the jury will hear and weigh the evidence and render a verdict. The jury must be unanimous in their decision concerning the guilt of the defendant if a guilty verdict is returned. If the jury is not convinced beyond a reasonable doubt of the defendant's guilt, a not guilty verdict must be returned. A not guilty verdict must also be unanimous.

If the jury cannot reach a unanimous verdict, the judge will declare a mistrial. The state will then decide whether to retry the case before another jury or to dismiss the charges.

Presentence Investigation. In all felonies and some misdemeanors, if the jury returns a guilty verdict, the judge will order a complete presentence investigation of the defendant's background and the circumstances of the case. A sentencing date is then set.

Sentence Hearing. After weighing the information from the investigation, the judge, at a sentence hearing, may sentence the defendant to a fine, jail or prison, probation or treatment or a combination of punishments. If the sentence is confinement or a fine, the judge may suspend the sentence. If the sentence is suspended, the fine and confinement do not have to be paid or served and the defendant is placed on probation. If the defendant fails to follow the rules and conditions of the probation, it may be revoked and the original sentence reinstated.

The judge may defer judgment in some cases. After successful completion of probation, the defendant's criminal record is expunged (destroyed). However a permanent "confidential" record of all deferred judgments is maintained by the State Court Administrator. Only Judicial Officers and County Attorneys have access to these "confidential" records.

CHAPTER 5

IOWA'S CIVIL LAW PROCESS

Court Talk

opinion
preponderance of the evidence
tort
contract
petition
plaintiff
defendant
respondent
pleading
interrogatories
depositions
pro se

Objectives

By the end of this chapter, students will be able to

- list differences between civil law and criminal law
- distinguish which civil cases involve domestic relations, which involve torts, and which involve contracts
- compare procedures in criminal and civil law
- analyze small claims cases, render decisions and give reasoning behind the decision

Eyes Open

You probably remember that civil law deals with the private rights and responsibilities of individuals and their conflicts arising over those rights.

Not only do you have rights and responsibilities as a citizen and as a consumer, these rights and responsibilities extend to your role as a family member, so as a spouse or a parent or a child, you have rights and responsibilities under the law.

Do you know of anyone who sued or was sued for damages? What happened? What situations might arise in your life when you might sue someone to recover damages for a wrong he/she did you or for a contract they broke? Or for failure to live up to their responsibilities?

……

Where does this child belong? With her birth parents or her adoptive parents? A swarm of reporters and television camera people recorded the crying and frightened child of 2 1/2 carried out of the home of Robby and Jan DeBoer home in Ann Arbor, Michigan on a warm August afternoon in 1993. This was the end of a legal tug-of-war over custody of a baby named Jessica (now Anna) which had been fought for two years in Iowa and Michigan state courts and eventually in the U.S. Supreme Court. Jessica was born to Cara Schmidt, an unmarried woman who gave up her rights to the child, as did the man she named as the father. The DeBoers, a Michigan couple unable to have children of their own, took Jessica to Michigan and waited for what appeared to be routine approval of the adoption.

Things turned out very differently than the DeBoers expected. Cara Schmidt said she identified the wrong man as father, and Dan Schmidt was proved by blood tests to be the true father who refused to give up his rights to the baby. Dan and Cara were subsequently married and sued to have the baby returned to them. After months of an agonizing court battle which see-sawed back and forth and sometimes pitted one state court against another, Baby Jessica was returned to her birth parents.

This case raised troubling questions about the criteria used by the courts in judging who should have custody of children. Should the interests of the birth parents always be given priority? When should the rights of birth parents be ended? Are the "best interests" of the child considered? Many other questions continue to challenge courts and legislatures. and the ordinary Iowa people involved so emotionally in similar cases.

You can read more about this highly publicized custody battle from the perspective of the adoptive parents in a book titled Losing Jessica *by Robby DeBoer published in 1994 by Doubleday. Anna Schmidt today lives with her parents in Iowa. Reports say she is happy and well.*

……

WHAT IS CIVIL LAW?

A person who thinks that another person or organization has violated his or her rights may settle the dispute through negotiation or arbitration as a last resort by filing a civil action (lawsuit) against the person or organization. Many actions between individuals or groups are regulated by civil law. You may be surprised to discover how much of everyday life is covered by civil law.

The basic difference between civil law and criminal law is that in civil law the *individual* (or a business) not the state, takes legal action. Thus, the title of a case will be Smit*h v. Jones* (or Smith Corporation v. Jones) rather than, as in a criminal case, The *State of Iowa v. Jones.*

Another difference is that the court will not provide you with an attorney for a civil case even if you cannot afford one. The Constitution provides for appointment of a free attorney to represent you *if you are accused of a crime* . But there is no such Constitutional guarantee for civil cases. Hiring an attorney and filing a lawsuit can be very expensive. The Legal Services Corporation of Iowa does handle some types of civil cases for low-income Iowans. Because they don't have enough staff to handle all cases, they prioritize the cases they accept. High priority cases include

- income maintenance (AFDC, food stamps, Social Security, etc.),
- Health (Medicare, Medicaid, etc.)
- Housing (discrimination, evictions, etc.)
- Family law (family abuse)
- Employment (discrimination, unemployment compensation, etc.)
- Consumer problems (utility shut-offs, unfair debt collection, etc.)
- Individual rights (including those of mentally and physically challenged persons and the rights of migrants)
- Rights of children (education cases, custody cases, rights of children in confinement, etc.)

Legal Services have offices in ten Iowa cities: Cedar Rapids, Council Bluffs, Davenport, Des Moines, Dubuque, Iowa City, Mason City, Ottumwa, Sioux City, and Waterloo. Which one is nearest you?

Other organizations also assist in certain limited cases. What other organizations might help in civil cases?

A third difference is that, if a jury trial is chosen, only eight jurors will hear the case as opposed to the twelve which hear a criminal case. And there need not be a unanimous decision. Only seven of the eight jurors must agree upon the verdict. If there is no jury, a judge will hear the case and issue an opinion.

A final difference is that the jury or the judge will use a different standard to decide civil cases than the *reasonable doubt* standard used in criminal cases. In civil cases, the winning case will present the ***preponderance of the evidence***. This is a lesser standard than is "beyond a reasonable doubt" which is required in criminal cases. In Chapter 6 you'll focus more carefully on the difference of standards required to prove a case.

Many states, including Iowa, have an inexpensive way for consumers to take legal action if someone believes another person owes relatively small amounts of money to him or her. This special court is known as **Small Claims Court**. Later on in this chapter you'll learn more about it.

THREE AREAS OF CIVIL LAW

The three major areas of civil law are **Domestic Relations, Tort** and **Contract** law.

- **Domestic Relations**

The family is the basic unit of our society, and the law is involved every time a birth, adoption, death, marriage, or dissolution (divorce) takes place. Iowa has, as does every other state, laws setting down requirement for marriage and laws outlining the basic rights and responsibilities of family members.

Since Domestic Relations involves dissolution of marriage (divorce), it also deals with custody of children and their maintenance (child support), alimony, and property division. Child abuse and neglect and domestic abuse are elements of dissolution and custody cases, but they may also be tried under Iowa's criminal statutes.

Domestic relations actions are tried before a judge rather than a jury.

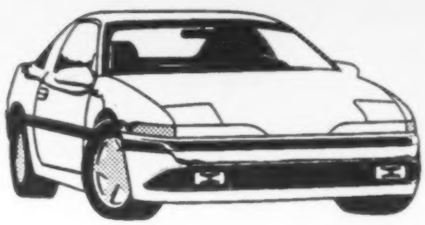
In 1993 the Iowa legislature, recognized that many abused spouses do not have the money to hire an attorney and go through a costly court battle in order to get a non-contact order and to apply for financial support from the abuser. The legislature authorized a ***pro se*** (for yourself) procedure that allows one to file without the aid of an attorney the proper papers. Ask your Clerk of Court how this has affected the work of their office.

- **Torts**

A tort action is the result of an injury resulting from the intentional or negligent actions of another. The injured party seeks to recover money from the other party.

The word *tort* comes from the Latin tortus which means "twisted." In French the word *tort* means "wrong." The English word *tort* has come to mean conduct that is twisted or crooked — not straight. A tort occurs when one person causes injury to another person or to another's property or reputation.

For instance, Delores drives in a fast and reckless manner and skids into Juan's car, damaging it severely. Not only will Delores be charged with a crime by the police, she can be sued by Juan (or his insurance company) for damages.



Tort law requires us to act with reasonable care toward people and their property. Failure to exercise reasonable care may result in legal liability. By providing a forum whereby the person who was harmed can sue the person who failed to act in a prudent manner, tort law provides guidelines of behavior that society expects from people. Through the payment of damages, it is hoped that future injuries and losses will be prevented and that more reasonable behavior will be encouraged.

- **Contracts**

A contract action is the result of one or two parties breaking the provisions of a mutually held agreement. A contract is an agreement that usually involves money, goods, or services. Most contracts in everyday life are simple. For instance, as the newspaper deliverer promises to deliver a paper to your front door every day in exchange for your paying fifty cents a day and one dollar on Sundays.

Even simple contracts are backed by the law. In most cases, a contract must contain three things in order to be valid:

1) an offer
2) an acceptance
3) consideration (something in return)

A large number of consumer complaints about business practices and questionable deals end up in court. If you have questions about an individual or a company doing business in Iowa, phone the Consumer Protection Division of the Iowa Attorney General's office at 515-281-5926.

APPENDIX F

FILINGS IN THE IOWA DISTRICT COURT
1960-1993

Year	# District Judges	Civil[a]	Criminal[b]	TOTAL	Per Judge	Juvenile[c]	Probate[d] Opened
1993	101	68,244	75,844	144,088	1,427	8,618	21,070
1992	101	63,381	72,227	135,608	1,343	7,767	20,170
1991	101	54,602	65,471	120,073	1,189	7,724	21,492
1990	101	52,030	60,942	112,972	1,119	8,086	22,633
1989	100	49,581	55,843	105,424	1,054	7,088	23,569
1988	100	48,432	49,704	98,136	981	6,745	25,621
1987	100	49,697	45,115	94,812	948	6,064	24,410
1986	99	53,027	45,391	98,418	994	6,367	23,793
1985	99	54,005	41,116	95,121	961	6,060	24,790
1984	99	49,294	40,379	89,673	906	6,099	24,190
1983	99	51,476	39,952	91,428	924	5,532	24,233
1982	95	55,763	39,008	94,771	998	5,363	24,329
1981	95	58,225	36,932	95,157	1,002	5,570	24,192
1980	92	58,442	35,669	94,111	1,028	5,501	23,452
1979	92	51,031	31,026	82,057	892	5,227	23,479
1978	92	46,498	27,942	74,440	809	6,179	24,218
1977	92	43,324	28,795	72,119	784	6,000	23,202
1976	89	40,103	26,009	66,112	742	5,744	22,896
1975	84	37,963	23,600	61,563	733	5,685	22,640
1974	83	36,216	20,653	56,869	685	5,446	22,646
1973	83	38,057	16,148	54,205	653	3,730	22,803
1972	76	40,483	10,699	51,182	673	2,567	21,953
1971	76	40,315	11,300	51,615	679	3,249	21,317
1970	76	37,965	10,140	48,105	633	3,224	20,470
1969	76	35,574	9,505	45,079	593	2,876	20,158
1968	75	33,617	8,367	41,984	560	2,626	19,520
1967	76	31,646	7,496	39,142	515	2,367	19,310
1966	75	30,310	7,159	37,469	500	2,146	19,515
1965	75	29,207	7,432	36,639	489	2,163	19,463
1964	75	28,405	7,004	35,409	472	2,341	19,034
1963	75	28,138	6,641	34,779	464	2,096	18,532
1962	75	28,528	7,113	35,641	475	2,035	17,831
1961	75	28,288	7,209	35,497	473	1,880	17,346
1960	73	26,767	7,260	34,027	466	2,012	17,248

[a] Includes civil cases over $2,000 and small claims on appeal.

[b] Includes indictable criminal cases (serious and aggravated misdemeanors and felonies) and simple misdemeanor appeals.

[c] Includes petitions filed in ordinary juvenile matters, e.g., delinquency, child and family in need of assistance, and interstate compacts (extradition) matters; does not encompass cases involving termination of parental rights. [Table 8(a)]

[d] Includes the number of estates, trusteeships, guardianships, and conservatorships opened. [Table 7(a)]

BEST COPY AVAILABLE

Heads Up Decide in the situations below whether the situation might result in a civil case and, if so, would it involve a **domestic relations**, a **tort** or a **contract** case:

D. Rel. Tort Con.

______ ______ ______ 1. Your dog bites the postman so badly he has to have stitches; he can't work for a week; and his uniform was torn.

______ ______ ______ 2. *The National Tattler* reports that TV anchor Jill Grant failed journalism classes at the University of Iowa. The TV network demotes her. She never attended the University of Iowa.

______ ______ ______ 3. Tim and Ellen are young, have little money, two children, and their three-year old marriage is at the breaking point.

______ ______ ______ 4. Randi bought a microwave oven from the ABC Appliance Store. After she had it for fourteen months, themicrowave didn't heat properly. The ABC Appliance Store says the warranty was good for only twelve months.

______ ______ ______ 5. Lynn promised Susan she could have her CD if Susan would help her pack up her belongings to move. After Susan spent all weekend helping Lynn pack, Lynn decided she really didn't want to give Susan her CD and offered Susan $20 instead.

______ ______ ______ 6. Nan, 15, ran away from home and moved in with the family of her friend Yvonne. Yvonne's family did not enforce any rules. Nan and Yvonne did not attend school, hung out with known gang members and eventually were taken into custody by the police when the gang headquarters was raided by the police.

D. Rel.	Tort	Con.	
______	______	______	7. DeWayne's landlord sues DeWayne because DeWayne hasn't paid his rent. DeWayne says he didn't pay it because the landlord did not fix the broken water pipe he said he would.
______	______	______	8. Galene's pet is a pot-bellied pig named Mimi who lives in Galene's house, and usually has a red ribbon tied around her neck. When Galene went on vacation, her neighbors, the Hopkins, agreed to care for Mimi. Galene decided to extend her vacation for a week but failed to notify the Hopkins. When she returned, she found that the Hopkins had made pork chops and bacon out of Mimi.
______	______	______	9. The surgeon amputates Mary's right leg instead of her infected left leg.
______	______	______	10. Ben hires the Daly Driveway Company to resurface his asphalt driveway. When they finished, the Daly Driveway Company submits the bill that is twice what they estimated it would be, and Ben says the driveway is uneven and soft.

CIVIL ACTIONS PROCEDURES

In order to file a lawsuit against another person or organization, one party files a **petition** which is a *claim for relief.* The person filing the petition is known as the **plaintiff.** The petition is **served** on (delivered to) the other party, known as the **defendant.** The petition may be delivered by certified mail, the County Sheriff's department or by private process servers. The defendant then files an **Answer or Pleading,** denying liability and stating the reasons why.

Next, the *plaintiff* and *defendant* will exchange **interrogatories** and **depositions** which are oral and written questions. In this way, both parties exchange information to discover the relevant facts.

Both parties may file a variety of **pre-trial motions,** These motions seek to limit or narrow the scope of the issues in question. There also may be negotiations between both parties and if they agree on a solution, the lawsuit may be dropped. This is called **settling out of court.**

If no settlement is reached, a **pre-trial conference** is held. At this time, the parties may agree to narrow the issues in question and **stipulate** or agree that certain facts and documents are acceptable and true.

At trial, a jury receives the evidence and testimony and reaches a verdict. Only seven of the eight jurors required by Iowa law for civil cases must agree upon the verdict. If there is no jury, a judge will hear the case and issue an **opinion**.

To win, the party bringing the action must prove his or her case by presenting evidence that is more convincing to the trier of fact (judge or jury) than the evidence of the opposing party. They must present a preponderance *of the evidence.*

After the trial, **post-trial motions** may be filed and the "losing party" may file a **notice of appeal** with the Clerk of the Supreme Court.

Hands On

Make a chart showing step by step the Civil Justice procedures outlined above. Compare it with the Criminal Justice procedures chart.

SMALL CLAIMS PROCESS

You may act as your own attorney in controversies over small amounts of money — that is, $4,000 or less. These cases may be handled without the expense of an attorney (although an attorney may accompany either party to the dispute).

The small claims process makes justice significantly more accessible. For instance, if a landlord wants to recover $400 in damages from her tenant, it would probably cost much more than that to hire an attorney and have a full court trial.

To start a Small Claims action, one party files an **original notice** with the Clerk of Court. The party doesn't even have to go to the courthouse at that time. The party may phone the Clerk to request that a form be sent to the filer, and then the filer may mail it back to the Clerk of Court, along with a check for the fees. The only advance expense is the filing and docketing fee of $30.00 plus postage, if any, and the costs of serving notice on the defendant.

On the day set for the hearing, a magistrate or district associate judge will listen to both the plaintiff and the defendant and receive documents offered as evidence. After hearing the case, the judicial officer will decide what are the relevant **facts** in the case, what is the **issue** to be decided and then render a **decision**. Read the case below as an example of facts, issues and decision in a court case.

• •

The Case of Paul the Painter v. Shannon

Facts:

Paul the Painter says Shannon refuses to pay him $475.00 of the total of $1,875.00 for painting Shannon's house. Shannon says she paid $1,400.00, which is all she owes Paul.

Shannon claims that Paul the Painter said he would paint her house for $1,000 plus expenses for the paint, which Paul estimated would require 20 gallons at $20.00 a gallon, approximately $400.00.

Paul, however, submitted a total bill of $1,875.00 — $1,250 for labor plus a bill showing that he had purchased 25 gallons of paint at $25.00 each or a total of $625.00 for paint.

Paul the Painter says he told Shannon those original figures were only an estimate. He says he bought more expensive paint because of the poor condition of the boards on Shannon's house which also absorbed more paint than he had estimated. It also took longer to paint Shannon's house because of the poor condition of the siding.

Issue:

Did Paul live up to the agreement? Should he receive an additional $475.00?

Decision:

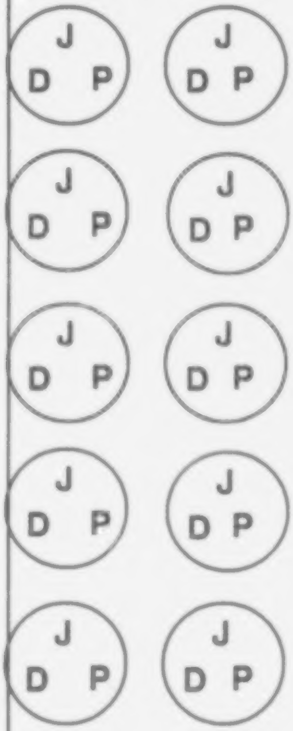
Since Shannon does not contest the fact that Paul actually used the extra $225.00 for the paint, he should be paid the $225.00 for paint. However, because Paul is a professional, he should have better estimated the amount of time it would take him to paint Shannon's house and Paul's request for $250.00 extra for labor is denied.

• •

Mind Shaping

(Based on 30 students)

10 Groups:
3 students in each group



Small Claims Court Role Play

A. Divide into groups of three (3). The person wearing the most red will be the plaintiff. The person wearing the most blue will be the defendant. The third person will be the judge. Rotate roles for each of the three cases.

B. Read the facts of the case. Determine what the issue is. Allow 5 minutes for the plaintiff and defendant to prepare their case and the judge to decide what questions s/he will need to ask in order to make a decision.

C. The plaintiff presents his/her case first, then the defendant. The judge must see that both sides have a fair chance to present their cases. The judge should not interrupt or dominate the proceedings.

The plaintiff tries to prove that the defendant owes him/her the money.

The defendant either tries to prove it untrue or gives reasons to justify his actions.

D. The judge asks questions.

E. The judge gives his/her decision and the reasons for the decision.

F. The roles are rotated; the facts of the second case are read; the steps are repeated. And through the third case as well.

G. All the judges for the first case assemble at the front of the classroom and each gives her/his decision and the reasons for it. They also should consider which was the most persuasive argument from the side which lost the case. Analyze the similarities and differences of the decision.

H. Repeat for the judges of the second and third case. Consider which is the most difficult role.

SMALL CLAIMS COURT CASES

Case 1

Corey asked Gerry to take over his/her newspaper route for a week while s/he went on vacation and told him/her that s/he would pay Gerry the $35.00 the newspaper would pay him/her for delivering for seven days. Gerry delivered the papers promptly each day but did not put them in plastic wrappers, so 25 customers on the route complained that their papers got soaking wet each of the three days it rained. The newspaper agreed not to charge the customers for the days their paper was ruined. At 50 cents a paper, the loss to the newspaper was $37.50, so the newspaper refused to pay Corey his usual $35.00 weekly fee, and Corey, in turn, did not pay Gerry the $35.00. Gerry is suing Corey for $35.00.

Case 2

Roadrunner buys a rocket suit from Acme Production Company. Roadrunner puts on the suit, stands on the rim of a canyon, and ignites the rocket which, instead of sending him into space, burns him all over his body; he falls into a canyon and breaks both legs and both arms. Acme says Roadrunner must have failed to use proper care in installing the rocket in the suit. The suit carries a warning label which said that unless the wearer properly aligned the rocket, it might backfire and cause harm.

Case 3

Ivan brings his car to Nidus Repair Shop to have a new muffler installed. They agree upon a price of $50.00. When he returns to get the car, Nidus tells him that they have replaced the entire exhaust system at a cost of $250.00. Nidus says it would have been dangerous for Ivan to drive with the exhaust system in the shape it was when Ivan brought it in. Ivan has refused to pay any money to Nidus, and Nidus is suing to recover the entire amount of their bill.

CHAPTER 6

THE JURY

Court Talk

plea bargaining

challenge for cause

peremptory challenges

change of venue

Objectives

By the end of this chapter, you will be able to

- describe the history of the American jury
- list the qualifications rights and responsibilities of jurors
- discriminate between characteristics of potential jurors to select those most favorable to either the defense or the prosecution
- analyze conflicting and ambiguous facts to reach a decision with others on a person's guilt or innocence

Eyes Open

Has anyone in your family served as a juror? Any of your friends? (If so, interview that person about their experiences on the jury.)

Have you ever heard of people who don't vote because they think it might lead to being called for jury duty? Would not voting prevent them from being called for jury duty?

Why would someone not want to serve on a jury?

How do you think you'd feel if you received a notice to serve on a jury?

Do you think an employer could prohibit an employee from serving on a jury?

Being chosen for jury duty is not a frolic at the beach

John Karras, April 2, 1995

I take it all back. I apologize. I was wrong. Again. I wrote in this space several weeks ago that I had been called once again (the third time) for jury duty, but didn't have one chance in a thousand – or words to that effect – of actually serving on a jury. Well, I did serve on a jury, and it was hardly a frolic at the beach. It was a murder trial, and an experience I'd rather not repeat ever again. I think the other 11 jurors would agree. The jury room fairly crackled with stress when we finally came to voting on the verdict, and most of us confessed to butterflies in the stomach afterward.

A lot of nasty things are said about jury duty, and some of them are true. One that is not true is that lawyers actively seek out the dumbest people they can find to serve on their clients' juries. But I would say that, wouldn't I?

Jury duty is, indeed, boring much of the time. As a potential juror, you do a lot of sitting around and waiting without the first clue as to what is going on. You are told essentially nothing. You are at the bottom of the judiciary system's food chain.

If your name is drawn for a trial selection pool you will troop off to the courtroom where the trial will be held and you will be subjected to a process known as voir dire (I did not hear anyone at the Polk County Courthouse pronounce it correctly; it's French and should be pronounced vwar deer with little rolls on the r's, not vore or voyer dyer.)

Typically, up to 50 names will be drawn for the selection pool in a serious criminal trial – fewer for a civil or a minor criminal trial – and from those, 12 jurors and several alternates will be selected by the lawyers representing plaintiff and defendant.

The voir dire process itself is most frustrating. I really don't understand what the lawyers are trying to do. Ostensibly, they are examining you to see if you are qualified to sit as a juror, but the questions they ask are inane. "Do you think you can be fair and impartial?" pretty much sums up the approach.

If you get seated on a jury likely as not you will be subjected to a barrage of factual minutae that is all but overwhelming and makes little or no apparent sense at the time.

Those are the bad things people say that are true.

The good side is that it remains the foundation of civilization as we know it, and given the choice, I wouldn't have it any other way.

I think one reason most of us find jury duty maddening is that our culture is so saturated with entertainment with a sheen of realism that we are unprepared to cope with real-life situations outside our routine daily existence.

A jury trial is a real-life situation. This is not television. There will be no surprise witnesses. There will be holes in the evidence; questions will remain; uncertainty will hang like a shroud over your deliberations when you finally get into the jury room to decide guilt or innocence, or, in a civil trial, amount of damages, if any.

No, the courtroom is real life. Entertainment – whether good or bad, sophisticated or trashy – is art. There is suspense, drama, a crafted denouement. In life, we never really know how anything is going to come out until it comes out.

My experience as a juror, except for the frustrations, has been positive. Every one of my fellow jurors has been conscientious to a fault. This is a serious business, and everyone knows it.

And it works. Slowly, glacially. But it works, and that's good. The alternative is the Spanish Inquisition.

Copyright 1995 The Des Moines Register and Tribune Company. Reprinted with permission.

* * *

TRIAL BY JURY: A CORNERSTONE OF DEMOCRACY

" Why do we love this trial by jury? Because it prevents the hand of oppression from cutting you off." ***—Patrick Henry, Gov. of Virginia***

"Trial by jury is the best of all safeguards for the person, the property...of every individual." ***—Thomas Jefferson, U.S. President 1801-1809***

The American patriots who fought for independence from Great Britain were ready to lay down their lives for the principles they believed in. These included freedom of speech and religion, and the right to trial by jury.The leaders of the American Revolution were outraged when colonists taken to court for violating the hated Stamp act and Navigation Acts were denied the English right to trial by jury (trial by jury being one of the rights wrung from King John in 1215 at Runnymede at the point of a sword when a handful of barons had forced him to sign the Magna Carta).

In the Declaration of Independence, Thomas Jefferson cited the failure to grant trial by jury as one of the major grievances which led to the rebellion.

The founders enshrined trial by jury as a right in two of the ten amendments to the Constitution known as the Bill of Rights.

- The Sixth Amendment states that in a *criminal* prosecution, an accused person has the right "to a speedy and public trial by an impartial jury"
- The Seventh Amendment states that in all civil cases where the money "value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved." (Although twenty dollars was worth a good deal more in 1791 than it is now, it was within the range of ordinary people.)

Heads Up

Thomas Jefferson thought that "the common sense of twelve honest men gives a still better chance of just decision" than any other method of trial.

Jefferson's belief about the justice found in a jury trial is well founded, but his description of the jury is out of date. The makeup of juries has been changed to reflect important changes in American law and society. Today's juries are very different.

Not only are today's juries no longer limited to the number 12, they are no longer solely the privilege of white men.

Trace the court decisions that have slowly ruled out discrimination in juries on the basis of race, ethnicity, gender, or economic status. Write a brief report detailing these changes.

THE POWER OF THE JURY

Judges and juries are essential parts of our legal system.

The judge has important responsibilities. S/he

- presides over the trial
- has the duty of protecting the rights of those involved
- makes sure that attorneys follow the rules of evidence and trial procedure
- instructs the jury as to the law involved in the case
- renders judgment in non-jury cases
- sentences individuals convicted by juries or in non-jury cases

A judge applies the law, but the jurors are the sole judge of the facts.

In a jury trial, the most powerful people are not the judge nor the attorneys but the members of the jury. They alone have the power to determine the fate of the defendant in a criminal trial or decide in a civil trial whether the plaintiff or the defendant will win cases that impact the life of everyone involved and sometimes involve millions of dollars.

The jury system is founded upon the idea that each juror possesses intelligence, integrity, sound judgment and complete impartiality in the performance of his/her duty. The jury hears all the evidence (unlike the general public who hears only what is shown on television or what is written in the newspapers; the jury decides upon the believability of the witnesses and the importance of each witnesses' testimony; they, alone, are the sole judge of the facts.

Once a jury has declared someone "Not Guilty," that person can never again be tried for that crime in that court. That's power — to have someone's life and property in your hands.

Most people who have served on juries and most observers are impressed with how seriously jurors take their responsibilities. Juries are the "collective conscience" of our communities. Comprised of our neighbors, friends and relatives, juries call upon their sound judgment and character to decide what is truth and what is fair compensation for those who have been wronged.

Interestingly enough, juries are often a powerful voice for change and safety. Thanks to juries, poorly-designed and dangerous toys, medicines, equipment, appliances, vehicles, and other consumer goods have been pulled from the stores, redesigned and made safer. Recently two juries refused to convict people accused of breaking state laws which said it was a crime to assist anyone commit suicide, thus signaling that the public is beginning to rethink these laws.

> **"We have given much of our democracy away... But in one place we still have a direct voice and can be heard, and that is through our juries. Because of them, we are still direct participants in our democracy."**
>
> John Guinther,
>
> *The Jury in America,* 1988

The jury system is coming under increased criticism, however. The O. J. Simpson case demonstrates some of the difficulty of selecting a jury in a highly publicized case. Some experts are suggesting that we will have to rethink some of the traditions that have become customary in jury selection.

We the members of the jury have concluded that clouded, poorly presented, inconsistent, and circumstantial evidence, is better than no evidence at all—guilty."

GETTING TO TRIAL

Juries are not used as often as one might think. In criminal trials the defendant decides whether there will be a jury trial or a bench trial. In civil cases, either the plaintiff or the defendant may request a jury trial. *Most civil cases result in dismissals, out-of-court settlements or trial by a judge.*

Most criminal cases are never brought to trial. Instead, they are disposed of by **plea bargaining.** As was mentioned in Chapter 4, plea bargaining is negotiation between a prosecutor and a defendant and his or her attorney in which a guilty plea is exchanged for a lesser charge or a lesser sentence. Though plea bargaining is decried by some, without it the court system would be completely overrun. If all cases went to jury trials, we would have to build many times the number of courtrooms and hire many times the number of personnel who make the justice system work.

But for those cases that are selected to go to trial, juries are essential. Although some people called to jury duty are afraid jury service will be a burden, an overwhelming majority of people who do become jurors find the experience highly rewarding. Practically all of them say they would be glad to do it again.

Some prospective jurors fear they will be tied up in a lengthy trial. Though long trials receive a great deal of publicity, they are rare. Most trials are completed in a day or only a few days.

If you were on trial, you would want to be judged by twelve conscientious, fair and open-minded people, weighing the evidence and coming to a just decision.

JURY SERVICE IN IOWA

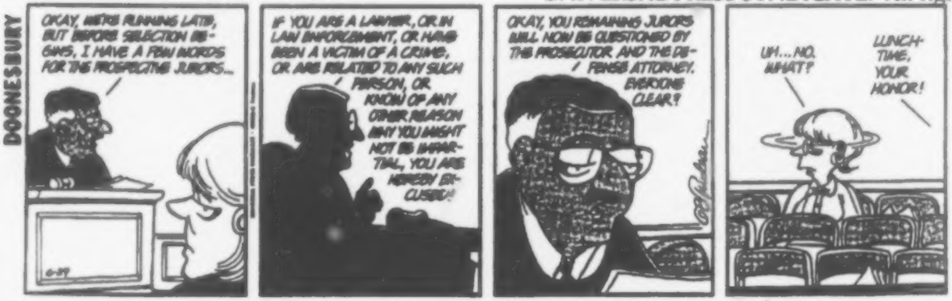
What qualifications are there to be a juror? All qualified persons living within the State of Iowa are considered to be prospective jurors. What does it mean to be "qualified"? It means you must

- be at least 18 years old
- be a citizen of the United States
- understand spoken (or manually signed) and written English

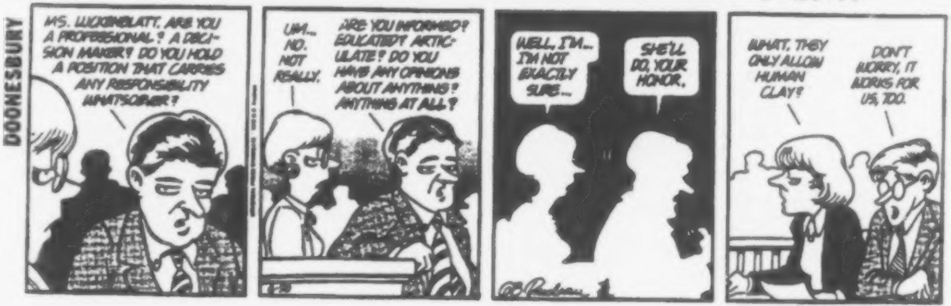
What would disqualify someone? Disqualification may result

- if a person's ability to receive or evaluate information is impaired or
- if the person is solely responsible for the daily care of a permanently disabled person living in the same household and the performance of juror service would cause a substantial risk of injury to the health of the disabled person
- if the person has, directly or indirectly, requested to be placed on the list of juror service
- has been convicted of a felony

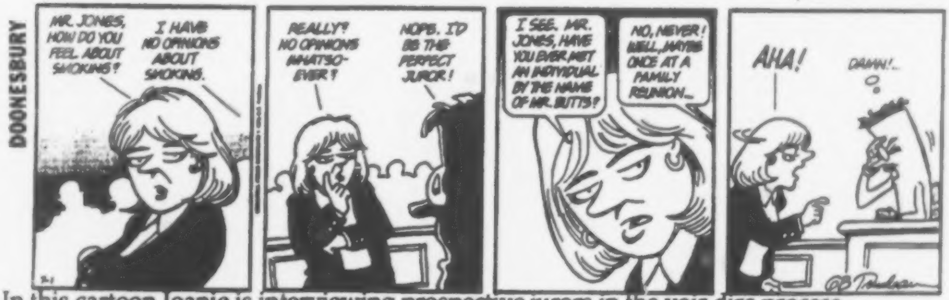
DOONSBURY copyright G.B. Trudeau. Dist. by UNIVERSAL PRESS SYNDICATE. All rights reserved.


DOONESBURY
OKAY, WE'RE RUNNING LATE, BUT BEFORE SELECTION BEGINS, I HAVE A FEW WORDS FOR THE PROSPECTIVE JURORS...
IF YOU ARE A LAWYER, OR IN LAW ENFORCEMENT, OR HAVE BEEN A VICTIM OF A CRIME, OR ARE RELATED TO ANY SUCH PERSON, OR KNOW OF ANY OTHER REASON WHY YOU MIGHT NOT BE IMPARTIAL, YOU ARE HEREBY EXCUSED!
OKAY, YOU REMAINING JURORS WILL NOW BE QUESTIONED BY THE PROSECUTOR AND THE DEFENSE ATTORNEY. EVERYONE CLEAR?
UH... NO. WHAT?
LUNCH-TIME, YOUR HONOR!

6-29-94


DOONESBURY
MS. LUCKENBLATT, ARE YOU A PROFESSIONAL? A DECISION MAKER? DO YOU HOLD A POSITION THAT CARRIES ANY RESPONSIBILITY WHATSOEVER?
UM... NO. NOT REALLY.
ARE YOU INFORMED? EDUCATED? ARTICULATE? DO YOU HAVE ANY OPINIONS ABOUT ANYTHING? ANYTHING AT ALL?
WELL, I'M... I'M NOT EXACTLY SURE...
SHE'LL DO, YOUR HONOR.
WHAT, THEY ONLY ALLOW HUMAN CLAY?
DON'T WORRY, IT WORKS FOR US, TOO.

6-30-94


DOONESBURY
MR. JONES, HOW DO YOU FEEL ABOUT SMOKING?
I HAVE NO OPINIONS ABOUT SMOKING.
REALLY? NO OPINIONS WHATSOEVER?
NOPE. I'D BE THE PERFECT JUROR!
I SEE. MR. JONES, HAVE YOU EVER MET AN INDIVIDUAL BY THE NAME OF MR. BUTTS?
NO, NEVER! WELL, MAYBE ONCE AT A FAMILY REUNION...
AHA!
DAMN!..

In this cartoon Joanie is interviewing prospective jurors in the voir dire process.
What does she learn from questioning these prospective jurors about their suitability as jurors?

BEST COPY AVAILABLE

What happens if you don't report for jury service? If a person fails to appear when notified to report without providing a sufficient cause, the court may issue an order requiring the person to appear and show cause why the person should be punished for contempt, and unless the person provides a sufficient cause for the failure, the person may be punished for contempt.

How can you be excused from jury service? Jurors may be excused from service for reason of hardship, inconvenience, or public necessity. No one is excluded from service because of race, color, religion, sex, national origin, economic status, or occupation. Physically handicapped persons shall serve unless the court finds the service is not feasible.

Can employers prohibit employees from serving on juries?

1. An employer can't fire an employee or threaten an employee because of the employee's service as a juror. An employer who violates this is subject to contempt of court.
2. If an employer discharges an employee because of juror service, the employee may within sixty days of the discharge bring a civil action for the recovery of wages lost as a result of the violation and for an order requiring reinstatement of the employee, as well as attorney fees.

Are jurors paid? Jurors receive $10.00 per day plus travel and parking expenses.

How long will a juror have to serve? Length of service varies from district court to district court. Remaining on the jury list for a month or two months is average. However, even if you're on a jury list, you may never be selected for the voir dire process; and if you are processed through that, you may never be selected to serve on a jury.

How does your name get on the jury list? All persons residing in the district shall have equal opportunity to be considered for juror service. Jurors are randomly selected from voter registration, drivers license lists, and other current comprehensive lists of persons residing in the county, including but not limited to the lists of public utility customers.

In some counties there is a three-person Jury Commission appointed by the district judges which draws up the master list of names of persons to serve as grand and petit jurors for two years. An "ex officio jury commission" composed of the Clerk of the District Court, the County Auditor, and the County Recorder, draw names of jurors from the list prepared by the appointive commission. These are stored on bits of paper in a ballot box until selected. The Clerk of Court estimates how many jurors will be needed for three months of trials, names are drawn and prospective jurors notified they should report to the courthouse for a certain period (usually three months) of jury duty.

In counties which have electronic data processing techniques and equipment, neither the appointive or the ex-officio jury commissions are used. Instead, a jury manager is responsible for maintaining and updating the master list. Find out which method is used in your county.

What's the first step in being selected to hear a case?

When a trial is to held, a certain number of the jury pool are assigned to a judge and taken to the courtroom where the trial will take place. The court clerk draws the names of a certain number of them, then called a jury panel (16 for a civil case where the jury will be reduced to 8; 12 plus the prescribed number of strikes for each side, which varies depending upon the seriousness of the crime.*) These prospective jurors sit in the jury box and take an oath promising to answer truthfully the questions put to them by the judge and attorneys.

*The **Iowa Code** lists the number of strikes allowed for a particular kind of crime.

THE VOIR DIRE PROCESS

The selection or impaneling of jurors is called **voir dire** (vwar deer), a French phrase which means "to tell the truth." Its objective is to select a fair and impartial jury.

(In some highly publicized cases, the defense will contend that pre-trial publicity has made it impossible to obtain a fair and impartial jury and will ask for a **change of venue**, which means that the trial would be held in another judicial district.)

The judge starts the voir dire by telling the jury panel the charges against the defendant and by asking them their name, age, address, occupation, and previous jury experience. In some cases, for example, child abuse cases, jurors may be required to complete a questionnaire about their attitudes and personal experiences. The judge might also inquire if there is any reason why they should not be jurors in this particular case. The judge will excuse prospective jurors from a case if their answers indicate a bias or prejudice toward one side or if they would suffer economically due to the length of the trial. The excused jurors, however, may have to serve in another case.

If the judge finds no reason to excuse a prospective juror, the attorneys for both side get an opportunity to question the prospective jurors in greater depth. In Iowa courts, the judge as well as lawyers may ask questions of prospective jurors. Questions are limited to matters relevant to the particular case and those that help attorneys decide whether or not to challenge a person's participation on the jury. Attorneys have an unlimited number of **challenges for cause** 1) if a juror is related to someone connected with the case 2) stands to benefit from a decision in the case or 3) has already formed an opinion in the case.

Each attorney can also eliminate a certain number of jurors without explaining the reason. These are called **peremptory challenges.** For instance, an attorney may get the impression that a prospective juror simply doesn't like the defendant and will then use a peremptory challenge to prevent that person from being on the jury. Each side, however, has a limited number of these challenges, the number prescribed by the Iowa Code according to the classification of the crime. In Iowa, both challenges for cause and peremptory challenges are called **strikes**. The U.S. Supreme Court has ruled that neither side may make a peremptory challenge on the basis of a juror's race or gender.

Some critics say that peremptory challenges are a problem in the system because they are used, not to achieve a fair and impartial jury, but to try to load a jury with supporters of one side or the other.

MIND SHAPING

Choosing a Jury

Directions:

1. Divide into two groups. Half of the class will act as the county (prosecuting) attorneys and half will be defense attorneys for Marla Singleton.

2. Read the case of *The State of Iowa v. Singleton,* the Prosecution's case and the Defense case on pages 6.14 and 6.15, and then the list of prospective jurors. Decide which of the prospective jurors would be the most sympathetic jurors for your side. Consider what type of person would be the ideal juror? Who would identify with your position? Think about qualities such as age, social background, marital status, family status, education, occupation, employment history, residence, history, personal history, hobbies, activities, experiences relevant to this case.

3. For this exercise, there are 2 challenges for cause and both defense and prosecution each have 2 peremptory challenges.

4. Fill in the "Jury Picks" sheet. Compare your list with those of the other side. Explain your choices to see if the other side had differing reasons for their choices. Analyze those choices.

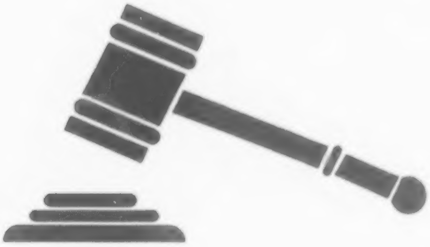
The State of Iowa v. Singleton

Marla Singleton is charged with Child Stealing. The complaint alleges that Singleton went to the Gingerbread House Nursery School, told the supervisor she was a friend of Audrey Davis, the mother of Glenda Davis, age 4. She told the nursery supervisor the mother had asked that she pick up the child after school because the mother was unable to do so because she had to work late. She left with Glenda.

Three days later, Glenda was identified at the zoo by a couple who had seen Glenda's picture on television news. Glenda was holding the hand of a woman later identified as Singleton. They notified the guard at the zoo who phoned police. Police found Glenda unharmed at the zoo. No adult appeared to be with her. Police returned Glenda to her mother and father.

Police investigation led them to Singleton, 35, white, married but separated from her husband. She supported herself by cleaning houses and working as a waitress on days she wasn't cleaning houses. She had worked for the Davis' as a weekly cleaning woman for five years. She has lived all her life in the same community, dropped out of high school at 15, and worked as a domestic and waitress but had notified her employers she was sick each of the three days after the child was taken. Singleton lives in a two-room apartment on the third floor of an interracial neighborhood. She has a previous conviction for marijuana possession.

Audrey and John Davis, 30 and 32, respectively, are white. This is their second marriage. They live in an affluent area of town. They met a year and a half ago when she moved to Iowa to accept a position as attorney for the Higgins, Templar, and Frederick law firm where John worked. Glenda and six-year old Ricky, children by Audrey's first marriage, were adopted by John.



POTENTIAL JURORS

1. Hazel is 43, white, single with a social work degree. In her work for the Human Services Department, she deals with neglected and abused children.

2. Loc is a 24 year old Vietnamese who became an American citizen two years ago. His English is somewhat broken. He says he studied the American legal system for his citizenship test.

3. Curt is 39, white, married with no children. He is a consultant for a computer software program which assists attorneys with legal research.

4. Amelia, 34, black, divorced, works as a beautician in a beauty salon. She has three children for whom she receives no child support.

5. Rob, 38, white, divorced, two children who live with their mother, works as a handyman when he gets work.

6. Adele, 62, white, married with grown children, lives across the street from the county attorney, who is her cousin.

7. Lucy, 25, white, separated from her husband. She and two other women share an apartment. She works as a waitress. She didn't finish high school.

8. Carl, 27, white, single, and a high school drop out. He's a musician who plays with a band which usually is booked for Friday and Saturday nights. He also works part-time at a record store. He was arrested for possession of crack but the charges were dropped.

9. Luise, 43, Hispanic, married, mother of four, works as a legal secretary in the office where Audrey and John Davis are attorneys.

10. Mary Ann, white, is 67, widowed, has seven grown children, has never worked. Her only income is social security.

11. Mark, 46, white, works as a truck salesman. He is divorced, no children. His hobby is riding motorcycles.

12. Alfred, 73, white, married, is a semi-retired farmer. His two sons now run the farm, though Alfred does the bookwork.

13. Joe, 53, black, four children, has worked at a tire factory for twenty-five years.

14. Alice, 43, white, single, lives with her mother. She cleans houses and is the sole support of her mother. During voir dire she said she knows Marla and knows Marla would never steal a child.

15. Dick, 53, black, married, no children of his own but his second wife has three children who sometimes live with them. He owns a food stand concession. He is legally blind.

16. Nancy, 22, black, unmarried, is a nursery school worker. She once worked at the Gingerbread House Nursery School.

17. Art, 23, white, married, one child, works for the Jensen Construction Company.

18. Chris, 40, white, married, mother of two. She was kidnapped as a child but was ransomed after four days for $500,000 by her parents.

"The jury will be in just as soon as somebody remembers where they were sequestered, Your Honor."

PROSECUTION'S CASE:

Fact: Marla Singleton had worked at a restaurant one block from the Gingerbread House Nursery School. She had to pass it on her way to and from the bus stop to the restaurant.

Fact: Her employer at the restaurant testified that Singleton
1) had left the restaurant at 4:30 P.M. the day of the abduction
2) phoned him the day after the child was abducted to tell him she was quitting and asked him to mail her pay check to her home address.

Fact: Gobind Hospital admission records showed Singleton had been admitted three times for miscarriages.

Fact: Singleton was identified by the couple at the zoo as being the woman they saw with Glenda.

Fact: Police found a child's clothes and toys at Singleton's apartment.

DEFENSE'S CASE

Fact: The child Glenda identified Singleton at one point but later pointed to one of the plainclothes police woman as her abductor.

Fact: The worker at the Gingerbread House Nursery School could not give a positive identification of Singleton.

Fact: The couple who spotted Glenda at the zoo were unable, under cross-examination, to describe what Singleton was wearing at the time they allegedly saw her at the zoo. The husband had recently had glaucoma surgery.

Fact: The guard at the zoo testified that there was another woman, much heavier than Singleton, who was in the vicinity of the zoo where Glenda was found.

Fact: Neither of the neighbors on either side of Singleton's apartment had seen or heard a child during the three-day interval Glenda was missing.

Fact: Mrs. Trent, for whom Singleton had cleaned for seven years, testified to the good character of Singleton.

YOUR JURY PICKS

NAMES

JURY (12)

____

____

____

____

____

____

____

____

____

____

____

____

CHALLENGES
FOR CAUSE (2)
(GIVE REASON)

____

____

DEFENSE
PEREMPTORY
CHALLENGES (2)

____

____

PROSECUTION
PEREMPTORY
CHALLENGES (2)

____

____

A JURY SIMULATION:

THE STATE OF IOWA V. SINGLETON

DIRECTIONS: You are going to step into the shoes of a jury to whom all the evidence has been given.

Step 1. You will divide into groups of approximately 12.

Step 2. You will listen to the **Judge's Instructions** on page 6.16. You should take these instruction with you into the jury room. You have the right and duty to understand the instructions and to ask the judge to tell you what the instructions mean.

Step 3. Each group will select a foreperson to guide the discussion, write down the jury's verdict and sign it as the foreperson of the jury. The foreperson participates in the discussion of the case and votes along with all other jurors on the issues presented to the jury to decide.

Step 4. Analyze the Facts presented by the Prosecution and the Defense and discuss them.

Step 5. Take vote to see what people are thinking.

Step. 6 If no consensus exists, continue discussion until a unanimous vote is taken.

Step 7. Sign the Jury Form on page 6.17 and present it to the Judge.

Step 8. Compare your decision and how you reached the decision with other groups.

"Guilty. Pass it on."

……

JUDGE'S INSTRUCTIONS TO THE JURY

The State must prove all of the following elements of Child Stealing:

1. The defendant fraudulently took Glenda away from the Gingerbread House nursery school.
2. At the time, the defendant knew she had no authority to take the child.
3. Glenda was under the age of fourteen years.
4. The defendant did so with the intent to detain or conceal Glenda from her parents.
5. The parents had lawful custody of Glenda.

If the State has proved all of the elements, then the defendant is guilty. If the State has failed to prove any one of the elements, then the defendant is not guilty.

The State does not have to prove motive but does have to show "specific intent" which means not only being aware of doing an act and doing it voluntarily, but in addition, doing it with a specific purpose in mind. Because determining the defendant's specific intent requires you to decide what she was thinking when the act was done, it is seldom capable of direct proof. Therefore, you should consider the facts and circumstances surrounding the act to determine the defendant's specific intent.

The burden is on the State to prove Marla Singleton guilty beyond a reasonable doubt.

A reasonable doubt is one that fairly and naturally arises from the evidence or lack of evidence produced by the State.

If, after a full and fair consideration of all the evidence, you are firmly convinced of the defendant's guilt, then you have no reasonable doubt and should find the defendant guilty.

But, if after a full and fair consideration of all the evidence or lack of evidence produced by the State, you are not firmly convinced of the defendant's guilt, then you have a reasonable doubt and you should find the defendant not guilty.

……

JURY FORM

In the matter of ______________________________

We, the members of the jury

find the defendant ______________________________

guilty / not guilty

of child stealing.

____

Signature: Jury Foreperson

CHAPTER 7

JUVENILE COURT

Court Talk	Objectives
juvenile delinquent act status offender rehabilitation offense aftercare adjudicatory hearing CHINA FINA *parens patriae* intake dispositional hearing waive	**By the end of this chapter, students will be able to** • define the major steps in the juvenile justice process • compare the juvenile and adult criminal petition justice processes • explain the rights juveniles have in the juvenile justice process and compare them with the rights of adults in the justice system • define at least ten (10) terms used in juvenile court

Eyes Open

1. Divide into groups of three. Taking turns, each person will tell the others a fact they know about the juvenile justice system. Included facts could be terminology that is used in the juvenile justice system, the names of the juvenile probation officers or judges in the area, legislation affecting the juvenile justice system, the names of the local group homes or state training schools.
2. Each group will report to the class as a whole. One person will write the facts on the board.
3. Discuss what facts the class doesn't know and what questions they would like to have answers to about the juvenile justice system.

The juvenile justice *system has a good many crash-and-burn stories and never enough success stories. This is one of the success stories. as told recently by Laura, an Iowa Juvenile Court Officer (JCO). It's the story of the courage of a young man, the love and devotion of a grandmother, and of state employees going far beyond their jobs to assist a boy in need.*

Chris first came to the attention of the court as a child of 4 when he was put under the protection of the court as a Child in Need of Assistance. The court found that he had been abused physically and mentally, neglected, (when he was left outdoors at age 3, several fingers were frostbitten and permanently deformed; after a hernia operation, the mother forgot to take him back to have his stitches removed, so he grew and the stitches didn't, deforming and rendering inoperative one testicle.) His mother has a history of alcohol and drug abuse, and selling crack cocaine was the principal occupation of the members of his mother's very numerous family. His father, a career military man, acknowledged Chris as his son, but he traveled the world and had little personal influence on Chris at that time. Chris was put into foster homes and abused in at least one home.

A juvenile court officer carefully watched over this case and repeatedly came to Chris' rescue. Eventually he saw to it that Chris' father's mother, an uneducated but wise and loving woman, was given custody of her grandson. She provided a stable environment for the boy. An uncle, his dad's brother, was also a stable influence on the boy. But the mother, allowed by the court to maintain contact with her son, and his mother's family members continually tried to take Chris away, to influence him to join them in their criminal and anti-social behavior. As the JCO put it, Chris, by virtue of being born into his mother's family, was born a Vice Lord. and as such he was expected to behave in certain ways that he hid from his grandmother. Chris was torn. He could go either way.

By the age of 16, Chris liked to look tough and talk hard. He was arrested with a companion for 1st degree Theft — a felony. They had taken $7.00 from a younger kid in a park by bodily throwing him down. It was at this time that Chris' case came into the hands of Laura. She remembers well that the juvenile court officer who had looked after Chris since the age of 4 came into her office, shut the door, and said, "Do right by this kid." Laura did. She got probation for Chris, got to know Chris and his grandmother and came to admire her.

Laura developed a strong bond with Chris so that he came to trust Laura enough to ask her to protect him from drive-by shootings. Then he told her he was worried; he would be killed because he was trying to get out of the gang. He needed her help. Laura got up early every morning to drive him to school and back home again after school until the situation became so dangerous that in the middle of the night Chris phoned Laura to say he had to get out of town immediately. Laura got money for a bus ticket to Georgia from Grandma, gave him a suitcase and clothes gathered from her husband and friends, and drove him to the bus station at 5 A.M. Chris graduated from high school in Georgia, staying with his father, and calling Laura every 3-4 weeks.

He came back to Iowa after graduation, wanting to go to college so he could be a social worker like those who had helped him. Laura helped him fill out the financial aid forms and took him to the community college to talk to the advisor. Everything went unexpectedly fast. By noon, Chris was enrolled, with a full-ride baseball scholarship. They went to the college book store for $300 worth of books. Laura bought him a book bag and a jacket with the college logo on it. They drove straight home to celebrate with Grandma. They laughed and hugged and jumped and cried together.

Chris was the second in his family to graduate from high school. Chris will be the first person in the family to go to college.

The Juvenile Justice system deals with juveniles who abuse and juveniles who are abused. The article below taken from *Source: Safeguard News & Views* (Spring 1994):1-2, published by the Boulder, Colorado, Safeguard Law-Related Education Program. It is written by the Hon. David E. Ramirez, Judge of Denver Juvenile Court. He asks readers to share this perspective on violence and youth.

> The recent concern over youth violence as expressed by local and national officials exemplifies the ignorance regarding children's issues generally. At the outset, I would note that the real issue is violence toward youth and not youth violence, although those terms are often used interchangeably. Youthful violence assumes youth are violent toward society in general. Violence toward youth implies that youth (children) are the subjects of violence by adults, and other youth. In that regard, it is the violence to youth that has created the current hysteria over youthful violence. Many studies suggest that children who are subjected to violence are more susceptible to becoming violent youth and later violent adults.
>
> A recent study by the National Institute of Justice indicated that being abused as a child increased the odds of future delinquency and adult criminality overall by 40 percent. The likelihood of arrest as a juvenile increased by 53 percent, as an adult by 38 percent, and as a perpetrator of violent crime by 38 percent if a child was abused and neglected.
>
> It is within that context of violence toward youth that we must direct our energies if youthful violence is to be abated. Ongoing studies and data suggest that incarceration is not a preventative vehicle for future violence. In fact, one recent report indicates that jailing juveniles increased the potential for future criminal acts, and jailing juveniles with adults exacerbates their criminality. This would suggest that prevention at age zero is the most appropriate point at which to address juvenile violence.
>
> The irony of this situation is that answers are available and could have been adopted in the past. From scientific studies and common sense, we know why violence involving juveniles exists. The risk factors in the child's life create the cycle of violence. Those risk factors include (1) family influences; (2) school experiences (3) neighborhood and community influences (4) peer influences (5) individual characteristics.
>
> As a society of committed individuals, we need to deflect the focus from juvenile violence to the juveniles themselves. We need to shift the focus from incarceration to prevention, away from juvenile jails and toward juvenile care facilities. Our leaders must understand the origins of violence, not the results of violence. We must not mistakenly believe that victimization starts at the end of a gun, but when a child is born into deprivation and poverty.

* * *

IOWA'S JUVENILE COURTS BULGING AT THE SEAMS

Iowa's overburdened juvenile court system has seen an overall rise of 12% of cases since 1990. Polk County, Iowa's largest county, has leaped 57% in those two years. As a result,

- The five Polk County attorneys who handle juvenile cases handled 500 more cases in 1994 than in 1991. Each prosecutor gets about 300 new cases each year, not including new ones.
- Each juvenile case has to be reviewed every six months, so twice a week a Polk County judge has to review one every 15 minutes.
- It now takes an average of 45 days to process delinquents –three times longer than state guidelines allow.
- Juveniles are having to stay in the overcrowded detention center longer than necessary and foster families are even more burdened.
- Help is delayed for juveniles who are beaten, raped or exposed to drugs by adults.

Why do you think there are so many more juveniles in trouble in the first place?

DEFINITIONS

This chapter is going to deal with a lot of terms. Understanding the terms will help you understand the concepts and procedures of the juvenile court system. Some of the terms are unique to juvenile justice and some are more-or-less equivalent to terms you learned in the chapter on criminal process.

The first word that needs defining is **juvenile.** This varies from state to state, but in Iowa it is an individual seventeen (17) or younger. On one's eighteenth (18th) birthday, that individual ceases being a juvenile and becomes, under law, an adult.

Status offenders are juveniles who have committed an offense which is illegal only if committed by a juvenile and which would not be illegal if committed by an adult. Such charges as truancy from school, being "out of control" or "habitually disobedient". Being a runaway or being promiscuous are status offenses.

Status offenders may be victims of verbal, physical or sexual abuse who act out to escape from abusive or difficult home situations. Some are emotionally troubled youths who need help. Many have drinking and drug problems.

The Juvenile Court has jurisdiction over petitions asking the court to declare a child to be a **Child in Need of Assistance** or a family to be a **Family in Need of Assistance**. The latter two are usually referred to by their acronyms, CHINA and FINA.

A **CHINA** petition is filed with the court when a child is believed to be abandoned, abused, neglected, or otherwise in need and without resources. Anyone who feels that a child (anyone under 18) fits this description should notify either the Department of Human Services, the Juvenile Probation Department or the County Attorney. An investigation will be conducted.

A **FINA** petition, filed by either the child or the parents, asks the court to help the family deal with a breakdown in its relationship by using court resources and authority to seek a solution to the problem. This provision is designed to be useful particularly when children are out of control, wayward, truant, or runaway. The use of this petition varies from county to county because it assumes the availability of community services which may or may not be adequate to the need.

The state is prohibited from placing CHINA or FINA juveniles in the boys' or girls' training schools at Toledo or Eldora.

A **delinquent act** is any offense, felony, or misdemeanor that would be a crime if committed by someone 18 or older. A crime is an act or omission declared illegal by law.

PHILOSOPHY OF JUVENILE COURT

The philosophy of the juvenile court differs from the philosophy behind adult court. The juvenile court is to act **in the best interests of the child**. Judges presumably act in the best interests of society and the child. Because of this philosophy of **rehabilitation** rather than punishment, the juvenile is not arrested but **taken into custody**. Charges against the juvenile are not called an indictment or an information but a **petition.** S/he doesn't commit a crime but an **offense**; doesn't have a trial but an **adjudicatory hearing**; s/he is not found guilty but is found **delinquent.** S/he is not released from prison on parole but is **released from an institution to after-care.**

Despite the concern for the child, the U.S. Supreme Court has ruled that juveniles do not have all the protection of the Constitution held by adults. They do not have the right to bail, nor do they have the right to trial by jury nor a public trial. Proceedings and records are kept private.

WAIVING A JUVENILE TO ADULT COURT

It is possible for the juvenile court to **waive** (give up) its jurisdiction over the juvenile and send the child to adult court. The Iowa Code allows this if all of the following apply:

1. The child is 14 years of age or older.
2. There is probable cause to believe that the child has committed a delinquent act which would constitute a public offense.
3. There are no reasonable prospects for rehabilitation in the juvenile system and the child is adjudicated to have committed the delinquent act, and that waiver of the Court's jurisdiction is in the best interests of the child and the community.

Also, in determining the factors of number 3 above, the Court shall consider but is not limited to, the following:

1. The nature of the act and circumstances under which it was committed.
2. The nature and extent of the child's prior contact with juvenile authorities, including past efforts of such authorities to treat and rehabilitate the child and the response to such efforts.
3. Programs, facilities and personnel available for rehabilitation and treatment in juvenile court vs adult court.

If found guilty in adult court, the person would then be returned to juvenile court for a decision by the judge on his/her future.

In the wake of more violent crimes being committed by juveniles, there is a growing number of youth being waived to adult court. Some people are calling for automatic trial in adult court for certain offenses.

Heads Up

Place the terms on the worksheet in the correct column and suggest why the juvenile terms were used instead of adult court terms.

Juvenile / Adult Criminal Justice: Differences and Rationale

Elements	In Juvenile Court	In Adult Court	The Rationale
arrest by police			
indictment / information			
goes to trial			
has no right to bail			
is found delinquent			
commits a crime			
is found guilty			
commits an offense			
released on parole			
has no right to a jury trial			
has a dispositional hearing			
taken into custody			
petition			
has a right to bail			
sentenced			
has the right to bail			
has an adjudicatory hearing			
is sentenced			
is placed under the care of the state			
has a right to a jury			

JUVENILE COURT PERSONNEL

Juvenile matters are heard by District Judges, District Associate Judges designated by the Chief Judge of the judicial district to act as judges of the juvenile court, and Associate Juvenile Judges.

Each district court employs county juvenile court officers. Juvenile court officers (who used to be called "probation officers") assist the court in working with young people who find themselves involved with the judicial system. By majority vote of all District Judges, a Chief Juvenile Court Officer is named for each district. The Chief Juvenile Court Officer is the chief administrator for juvenile matters within the district, helps set policy, hires juvenile court officers, and assigns cases within the district

Hands On

1. Interview a Juvenile Court Officer to find out how the juvenile justice system works in your area. Before the interview, develop a list of questions, such as,
   - Who are the personnel in the county who work with kids?
   - Do you deal more with CHINAS or delinquents?
   - What resources are available in your area when kids are found delinquent or who are status offenders or who are found to be in need of assistance? In other words, what options does the judge have to ensure the best interests of the child?
   - What are the greatest local problems with juveniles?
   - What do you think should be done to improve the system?
2. Interview someone from the Youth Law Center in Des Moines which provides legal assistance and information to juveniles. Their telephone number is 515-244-1172. They operate a Youth Law Hotline which operates Monday through Friday from 8:30 A.M. until 5:00 P.M. at 1-800-728-1172.
3. Interview a youth worker from a youth shelter in your area.

DEVELOPMENT OF THE JUVENILE JUSTICE SYSTEM

What to do with youths who disrupt society or who are themselves neglected or abused has been the subject of law since Roman times.

When the United States was formed, we adopted much of the British common law which since feudal days had used the doctrine *parens patriae* (literally, "parents of the country"). This doctrine asserted that all orphans, dependent children and incompetent persons are within the special protection and under the control of the state. Later, this term came to encompass not only neglected children but also those accused of violations of the law — but that wasn't to happen until 1899.

In the 1800's children arrested for criminal acts were treated like adults under the law and thrown into the same prisons that housed hardened criminals. Reformers, philanthropists, intellectuals and social scientists worked for decades to establish a modified system of criminal justice with a separate court and separate correctional facilities for children in trouble. This emphasis on treatment helped to justify the creation of separate courts for juveniles.

The first reforms achieved separate correctional institutions. As early as 1825, in some instances children were separated from adult offenders and, instead of confinement for punishment, were taught trades and were given hard work to instill discipline. The concept of probation as an alternative to confinement also emerged, the assumption being that treatment and supervision would be the best means to prevent further criminality. The first state to set up a separate juvenile court to cope with the problems which arose essentially out of conditions in the family life, school and the job world was Illinois in 1899. By 1925, all but two states had set up separate juvenile court systems.

The premise for a separate system was that young people would be "helped," not "punished." Hearings were to be informal, and not open to the public; records would be kept confidential; children detained apart from adults; and probation staff would be appointed. Even a new vocabulary was adopted. The goals were to investigate, diagnose, and prescribe treatment, not to adjudicate guilt or fix blame. The individual's background was more important than the facts of a specific delinquent conduct.

Despite efforts to make the system more humane and effective, the objectives of the reform movement were not achieved in operation. The juvenile courts were often given insufficient financial resources necessary to do the job adequately. And along the way, young people were subjected to all sorts of abuses of procedural due process. Behind the closed doors of the system, children did not receive the same Constitutional protections adults did in adult court. For example,

- unsubstantiated rumor was used as evidence
- absence of the right to counsel
- arbitrary and indeterminate sentences which frequently resulted in longer jail sentences for delinquents than for adults for the same crime.

In the late 1960's and early 1970's three landmark cases before the U.S. Supreme Court changed the face of juvenile justice. The court insisted on some Constitutional rights for juveniles:

1. **Notice of Charges** - Being told exactly what you are being accused of, far enough in advance of your hearing to be able to prepare your case.
2. **Right to counsel** - If you don't have enough money to pay, the Court must appoint a lawyer for you.
3. **Right to Confrontation and Cross-Examination** - Being able to hear the testimony of the witnesses and of your accusers and be able to question them.
4. **Privilege against Self-Incrimination** - Being told that anything you say might be used against you.
5. **Proof "beyond a reasonable doubt"** - Being judged in criminal cases on the exacting standard rather than the lesser "preponderance of evidence" used in civil cases

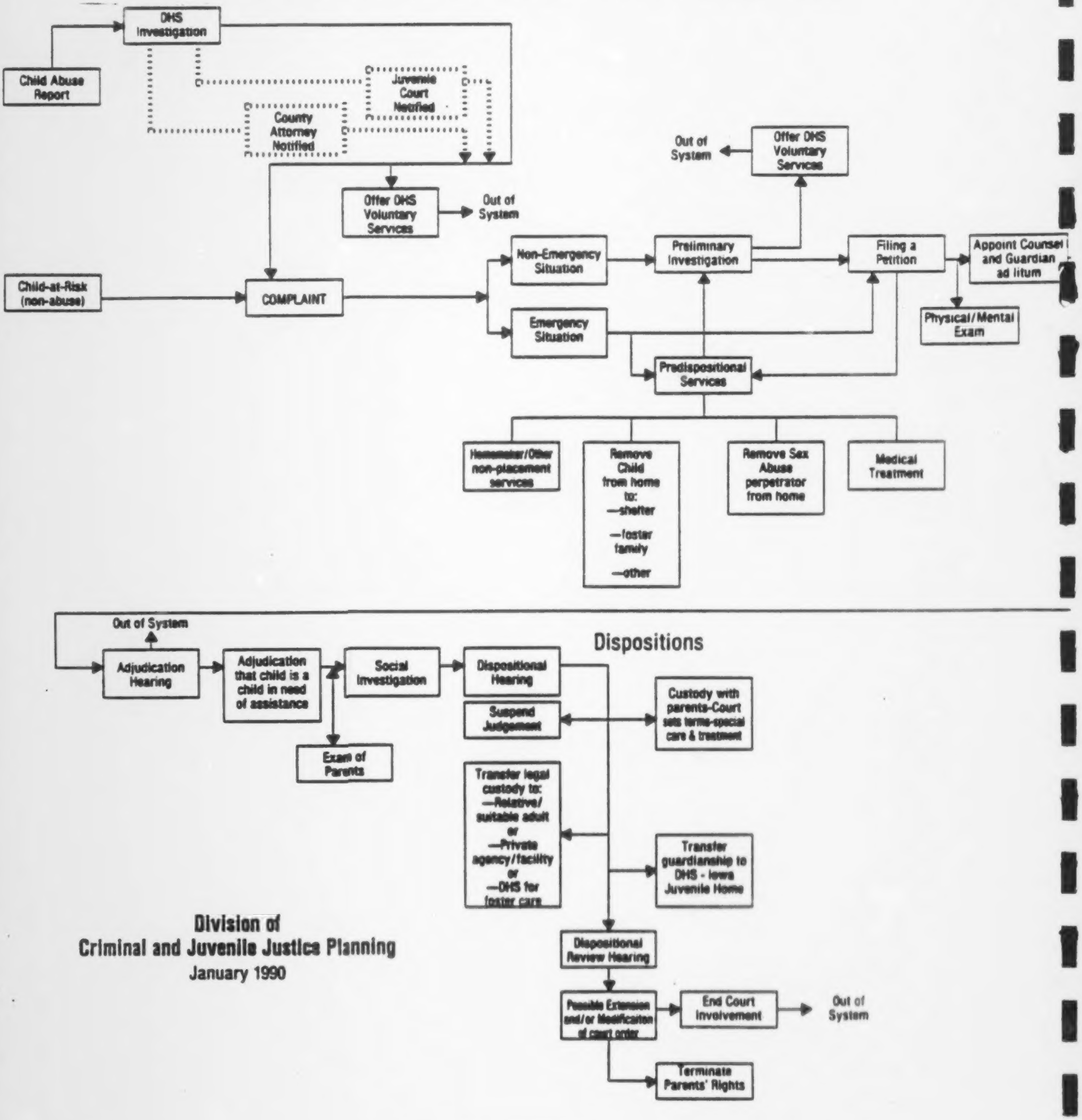
The court also ruled that juveniles do not have a Constitutional right to trial by jury. The Court did not rule out trials by jury for juveniles in those states which want them. It merely said that jury trial not a Constitutional imperative in juvenile proceedings because it does not regard them as full-fledged criminal trials.

Heads Up

1. Read about the three U.S. Supreme Court cases that changed the juvenile justice system in the 1960's and 1970's: *In re Gault* 387 U.S. 1 (1967); *In the Matter of Winship* 397 U.S. 358 (1970); and McKeiver *v. Pennsylvania* 403 U.S. 528 (1971). Report on the specific situations of these teens who brought these cases to the Supreme Court.
2. The Juvenile Justice system in Iowa has received much criticism in the last few years. A gubernatorial candidate in the primary election in the spring of 1994 ran on a platform of reform of the juvenile justice system. The legislature almost annually makes changes in the juvenile system.
   NOTE: Chapter 8 has a section on changes which have been proposed in the juvenile justice law.

A. Talk with your state representative or senator about the perceived problems and proposed solutions.
B. Write an article for a newspaper reporting what the legislator said OR
C. Write a letter to the editor about the problems you perceive and what you feel should be done about them.

IOWA'S JUVENILE JUSTICE SYSTEM
CHILD IN NEED OF ASSISTANCE PROCEEDINGS


DHS Investigation
Child Abuse Report
Juvenile Court Notified
County Attorney Notified
Offer DHS Voluntary Services
Out of System
Out of System
Offer DHS Voluntary Services
Child-at-Risk (non-abuse)
COMPLAINT
Non-Emergency Situation
Emergency Situation
Preliminary Investigation
Filing a Petition
Appoint Counsel and Guardian ad litum
Physical/Mental Exam
Predispositional Services
Homemaker/Other non-placement services
Remove Child from home to: —shelter —foster family —other
Remove Sex Abuse perpetrator from home
Medical Treatment
Out of System
Adjudication Hearing
Adjudication that child is a child in need of assistance
Social Investigation
Exam of Parents
Dispositional Hearing
Dispositions
Suspend Judgement
Custody with parents-Court sets terms-special care & treatment
Transfer legal custody to: —Relative/suitable adult or —Private agency/facility or —DHS for foster care
Transfer guardianship to DHS - Iowa Juvenile Home
Dispositional Review Hearing
Possible Extension and/or Modificaiton of court order
End Court Involvement
Out of System
Terminate Parents' Rights

Division of Criminal and Juvenile Justice Planning
January 1990

BEST COPY AVAILABLE

Hands On

Simulation of a CHINA Proceeding*

Adapted from a lesson by Teri Wilson, a guidance counselor at Ames Middle School in Ames, Iowa.

Videotape the steps in the court procedure for a CHINA case with one of the students role playing the child and the professionals involved explaining what they do and its purpose.

You will need to include these roles:

- child in need of assistance
- prosecuting attorney
- juvenile court officer
- juvenile court judge
- attorney (guardian ad litem) for child
- shelter care worker

Include these eight steps:

1. Child being referred to Social Services meets with juvenile court officer.
   Scripting - Department of Social Services representative should give a description of the situation to the juvenile court officer as s/he acts out the role.
2. Juvenile court officer warrants that the case needs juvenile court action.
   Scripting - Juvenile court officer explains in detail the reasoning why the case needs juvenile court action as s/he acts out the role
3. County attorney reviews the complaint and determines there is sufficient legal basis to file a petition which explains why the juvenile court is looking into the family.
   Scripting - County attorney explains why s/he has the legal basis to file a CHINA petition. This should be done as s/he is acting out the role.
4. If required, child is admitted to shelter care. An attorney is assigned to the child (guardian ad litem).
   Scripting - An attorney, acting as "guardian ad litem," should explain his/her role in the proceedings as s/he is acting out the role.
5. If the case is an emergency, a shelter care hearing should take place. Court determines the child should remain in shelter care.
   Scripting - All parties involved in the shelter care hearing should make sure to explain their roles as they act out the hearing.

continued on next page

6. Adjudicatory hearing. Judge hears facts of the case and determines that the evidence supports the allegations.
   Scripting - Judge explains proceedings as s/he acts out the role.
7. Dispositional hearing. Judge discusses alternatives and resources to rehabilitate the child and/or family.
   Scripting - Judge asks representatives from the various resource agencies to explain the possible alternatives as they act out their roles.
8. Explanation of how the provisions will be monitored to make sure the child's needs are being met.
   Scripting - The judge could also incorporate the monitoring provisions into the previous step. S/he should make it clear that the possible alternatives are always in the best interest of the child.

Discuss with the class the proceedings and the impact each step has in the total process. Emphasize that the "best interest of the child" is always of primary importance to juvenile proceedings. Have each person make a flow chart of CHINA proceedings

Delinquency Proceedings

Below is a chart showing how a delinquency case might proceed through Iowa's juvenile justice system. Note the differences from the adult criminal procedures you studied earlier.

The chart looks complicated because of the many options possible, but the essential steps are these:

1. **Delinquent act is committed**. This can be a crime or a status offense.
2. **Juvenile is taken into custody**. The juvenile is read his or her rights, is informed of the arrest. Juvenile cannot be handcuffed unless they forcibly resist arrest or have a history of violence. S/he then is taken to the police station.
3. **Intake**. Once the juvenile is charged with the offense, a decision is made whether to detain the juvenile at the juvenile detention center or release the juvenile to his or her parents. Juveniles can't be questioned without first getting their parents' consent. On some occasions, the parents cannot be reached or they do not want the juvenile to return home, the juvenile is then detained.

4. **Detention.** The juvenile is placed in a secure facility to wait for further action. Juvenile cannot be placed in a facility with adults unless the juveniles are sight and sound separated from the adult offenders. In most cases, juveniles can be held in a juvenile detention center. Juveniles can be held in jails but under limited circumstances. Most are released to their parents.
5. **Detention hearing.** This hearing is the step for a juvenile that parallels a preliminary hearing for an adult. The purpose of the hearing is to decide whether to further detain the juvenile. All hearings may be closed to the public if the judge determines that the possibility of damage to the juvenile outweighs the public's interest in having an open hearing. Juveniles are provided with attorneys free of charge.
6. **Adjudicatory hearing.** The allegations against the juvenile are read and the juvenile either admits or denies the allegation. If the juvenile denies the charge, an adjudicatory hearing is held. Juvenile adjudicatory hearings are similar to adult trials. If the juvenile admits the allegation or is found to have committed the offense following the hearing, the juvenile is adjudicated delinquent.
7. **Dispositional Hearing.** When a juvenile admits to the offense or is found to have committed the offense in an adjudicatory hearing, a dispositional hearing (analogous to sentencing in adult criminal procedure) is held to determine the next action.

Hands On

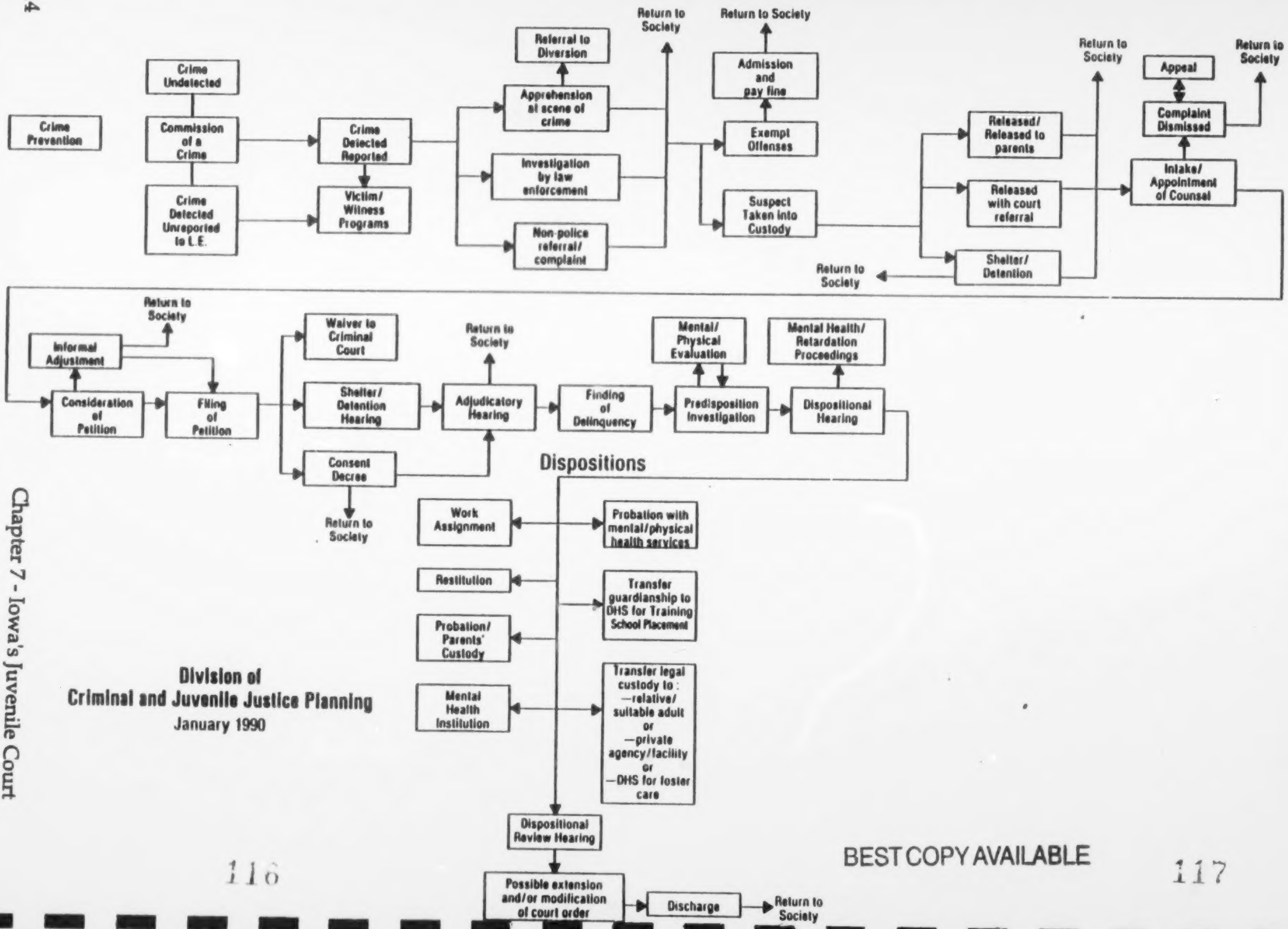
Study the diagram entitled "Iowa's Juvenile Justice System Delinquency Proceedings" and find the seven steps listed above.

Apply what you've learned about the model juvenile justice system to what actually happens in your own community. Divide into six groups to take one of the Steps A to F as shown on the chart and interview the juvenile justice personnel who deal with that step:

Step A:	Police officer
Step B:	Juvenile Court Officer
Step C:	Prosecuting attorney
Step D:	Magistrate or Juvenile Judge
Step E:	Magistrate or Juvenile Judge
Step F:	Juvenile's attorney

Each group should report to the class as a whole.

IOWA'S JUVENILE JUSTICE SYSTEM
DELINQUENCY PROCEEDINGS


Crime Prevention
Crime Undetected
Commission of a Crime
Crime Detected Unreported to L.E.
Crime Detected Reported
Victim/ Witness Programs
Referral to Diversion
Apprehension at scene of crime
Investigation by law enforcement
Non-police referral/ complaint
Return to Society
Return to Society
Admission and pay fine
Exempt Offenses
Suspect Taken into Custody
Released/ Released to parents
Released with court referral
Shelter/ Detention
Return to Society
Return to Society
Appeal
Complaint Dismissed
Intake/ Appointment of Counsel
Return to Society
Return to Society
Informal Adjustment
Consideration of Petition
Filing of Petition
Waiver to Criminal Court
Shelter/ Detention Hearing
Consent Decree
Return to Society
Return to Society
Adjudicatory Hearing
Finding of Delinquency
Mental/ Physical Evaluation
Predisposition Investigation
Mental Health/ Retardation Proceedings
Dispositional Hearing
Dispositions
Work Assignment
Restitution
Probation/ Parents' Custody
Mental Health Institution
Probation with mental/physical health services
Transfer guardianship to DHS for Training School Placement
Transfer legal custody to: —relative/ suitable adult or —private agency/facility or —DHS for foster care
Dispositional Review Hearing
Possible extension and/or modification of court order
Discharge
Return to Society

Division of
Criminal and Juvenile Justice Planning
January 1990

BEST COPY AVAILABLE

Dispositional Hearing

At the Dispositional Hearing, the juvenile judge will take into consideration a number of factors, including the following:

- seriousness of the act
- comprehension of the responsibility for his/her action
- child's age
- past history with juvenile or adult courts (all offenses)
- past treatment programs and any present rehabilitation programs
- school record
- employment record
- where s/he is living (with whom, how long and how successfully)
- past family history
- whether s/he has any dependents
- present attitude (any hope for change?)

The juvenile judge has several alternatives from which to choose. NOT ALL OF THESE LISTED OPTIONS ARE AVAILABLE IN EVERY COUNTY. AND SOME COUNTIES MAY OFFER OTHER OPTIONS.

The juvenile judge may order one or more of the following:

1. Give a firm warning (usually given in minor offenses)
2. Order probation. They may be required to
    - report regularly to a probation officer
    - stop associating with certain friends
    - submit to home or body searches on request
    - take a weekly urine test
3. Offer alternative of diversion programs which require attendance at weekly educational or work programs for a specific amount of time. If they successfully complete the program, the offense is wiped off the juvenile's record.
4. Order a Consent Decree (analogous to deferred judgment in adult court.) If the juvenile successfully completes probation, there is no adjudication of delinquency.
5. Commit to substance-abuse treatment centers. These residences focus on treating drug and alcohol abuse. These facilities often limit residents' contact with the community during treatment.
6. Send to a group home (a large home of a limited number of juveniles, perhaps 20) living under adult supervision and attending school like other students, able to hold jobs and move around the community. Most group homes also provide counseling.)
7. Require restitution for the victim which may involve getting a job and giving the juvenile a certain period of time to pay the victim for the damage.
8. Place in foster care. Most of the out-of-home placements are a result of bad family and home situations — the juvenile doesn't get along with the parents, there's a history of abuse, or the parents may have a substance abuse problem.

The state screens families that take in juveniles and pay them a certain amount of money for each child's upkeep

9. Impose a fine
10. Order a certain number of hours of community service
11. Send to correctional facility such as the Boys Training School in Eldora, the Clarinda Academy, or the Iowa Juvenile Home in Toledo.

You Did the Crime, Now What's the Time?: Disposition

DIRECTIONS: 1. Acting as the juvenile court officer, you must make recommendations to the juvenile judge on the disposition of the juveniles on today's docket. Read the Background, consider the factors listed above, then determine which of the options you believe would be in the best interests of the child and society.

2. Working in groups of 3-4, come to a consensus on the recommendation for disposition for each case(see options on p. 7.15 and 7.16) and report to the class as a whole your decisions and *the factors most important in making that decision*. Compare answers among the groups.

3. After you've had time to discuss your recommendations, ask the juvenile court officer for the disposition s/he would recommend.

••••••••••••••••••••••••••••••••••

CASE #1

Name: Curtis Carr
Age: 17 **Sex:** Male **Race:** White
Found Delinquent of: First degree theft
Circumstances: Curtis and his cousin Emil approached David Webb, 12, in playground at Sweetwater Park, asking for money. When David tried to run away, they caught him, shook and slapped him and took $10 and change from his pocket.
Previous record:
- Runaway, age 10; Released on summary probation to mother
- Runaway, age 12; Released on summary probation to mother
- Car theft, age 14; Group home
- Vandalism, age 15; Restitution

Personal Record: Lives with mother and grandmother. Poor attendance and grades at school.

JCOs recommendation and reason why:

CASE #2

Name: Rolondo Jackson
Age: 17 **Sex:** Male **Race:** African-American
Found delinquent of: Simple assault (while under a Consent Decree)
Circumstances: On his way to school, Rolondo and two other students in his Behavioral Disorder class picked a fight with another student, stole his CD player and roughed him up.
Previous record: • At age 16 was found to have committed arson. He was placed on a Consent Decree until age 18 with required community service and regular attendance at school. He completed the hours of community service and has been attending school regularly and getting all A's and Bs
Personal record: Lived with mother, stepfather and 3 younger sisters until very recently. While waiting for the dispositional hearing, his mother abandoned the family. He now lives with his father and 3 sisters.
JCOs Recommendation and reasons why:

CASE #3

Name: Tramore Johnson
Age: 17 **Sex:** Male **Race:** African-American
Found delinquent of: Possession of a dangerous weapon
Circumstances: Though not a member of a gang himself, he is threatened by two gang members. To protect himself, he purchased a gun from a white classmate who told him he would put it in Tramore's locker at school. Tramore did not ever see the gun or touch the gun or display the gun. An administrator at the school found the gun in Tramore's locker. Tramore says he was set up.
Previous Record: • At age 6 he became a ward of the state after his parents' parental rights were terminated because of severe abuse. He was put up for adoption but never adopted. Lived in thirteen different foster homes; had difficulty in adjusting. Probable detachment disorder which means inability to bond to others (result of neglect and abuse as a young child)
• At twelve is placed in Boys Town where he lived successfully until age 15 when he was terminated because of insubordination and inappropriate sexual behavior
Personal Record: Lives in foster where he was placed at 15. He had made a good adjustment. Though he is both learning disabled and behaviorally disordered, he is getting along fairly well in school. He is on the school football team.

JCO's recommendation and reasons why:

* * *

* * *

CASE #4

Name: Trang Shevong

Age: 13 **Sex:** Male **Race:** Asian-American

Found delinquent of: Weapons possession (while on probation for previous charge of vandalism)

Circumstances: Brought a gun to school and showed it to six or seven students before school.

Previous record: • Six months ago the school suspended him for writing gang graffiti on school walls. The court ordered probation. He has been meeting regularly with juvenile court officer.

Personal record: Lives with intact, stable family of mother, father, two older sisters who all have jobs. No record of anti-social behavior prior to vandalism six months ago.

JCO's recommendation and reasons why:

* * *

CASE #5

Name: Maureen O'Brien

Age: 17 1/2 **Sex:** Female **Race:** White

Found delinquent of: Car theft (while under guardianship of the state)

Circumstances: Maureen and her boyfriend took a neighbor's car, planning to run away to another state. She was fleeing from the court-order to go live in a group home for teen mothers in another town.

Previous record:
- At age 14 she was placed in state training school for murder of her father who had been sexually abusing her
- At age 16, having done very well at the training school, she was placed in a group home where she lived successfully
- At 16 1/2 she was placed in foster home where she adjusted well
- At 17 1/2 she became pregnant. Foster parents no longer wanted to keep her. Court ordered a placement in home for pregnant teens.

Personal record: Has been a model student in all placements. Has average grades. Her boyfriend and his family (who live close by her foster home) are very supportive.

JCO's recommendation and reasons why:

* * *

CASE #6

Name: Devon Hess

Age: 15 **Sex:** Male **Race:** White

Found delinquent of: Possession of a sawed-off shotgun (while on a Consent Decree for Simple Assault)

Circumstances: Devon brought a gun home and told his family that he had been threatened by another student who said that he was going to shoot Devon with this gun. Devon got possession of the gun through a third party. He thought that by bringing the gun home, he was saving himself — he thought it was an act of self-protection. The family told the social worker assigned to the family (after Devon was found delinquent of simple assault) of this incident. The social worker told the family to turn in the gun to him; the social worker turned it in to the police.

Previous record: • 6 months before latest incident, Devon was found delinquent of simple assault when he had a fight with a neighbor kid. He was ordered into a diversion program.

Personal record: Lives with mother, father and two younger brothers. Father has history of alcohol abuse. Few parenting skills are in evidence. Devon's school attendance is sporadic and he often does not follow probation rules.

JCOs recommendation and why:

••••••••••••••••••••••••••••••••••••

CHAPTER 8

WHAT'S AHEAD FOR IOWA COURTS?

Court Talk	Objectives
alternative dispute resolution	**By the end of this chapter, students will be able to** • explain three problems facing the Iowa courts and possible future solutions • compare and contrast the problems of Iowa courts with those of other states • point out two possible changes in the law which will affect teens and possibly result in legal challenges

Eyes Open

IT'S CRYSTAL BALL TIME

By now you've studied the Iowa court system and, presumably, you've spent some time talking with people at your courthouse, and spent some time in the courthouse. What do you think is ahead for Iowa courts? What are the upcoming challenges?

Have you observed any problems or heard some people talk about problems with the court system? Did you hear about or read about problems such as an overloaded court docket, lack of automation, failure to serve all the people, alternatives to trials and alternative sentencing to? What societal problems seem to be increasingly ending up in court? Will each of these problems improve or get worse? After you've identified some problems or future problems, can you think of possible solutions?

Are you aware of recent changes in the law that might result in testing the law in the courts?

YOU BE THE COMMISSIONER

On August 25, 1994 Chief Justice McGivern appointed a **Commission on Court Planning for the 21st Century**. The courts, he said, "are under pressure to respond to sociological, demographic, and technological changes." The commission is required to develop a long-range plan for the Iowa judicial system by March 31, 1996.

In April 1994, a national conference held by the American Bar Association looked at the problems facing the nation's courts and at some solutions to those problems which might be models for future implementation. The conference was called Just Solutions.

In this chapter you will do some of the things the members of the Iowa Commission will do and what the participants in the Just Solutions conference did. You will look at some of the problems and needs of the justice system and compare them with the problems that professionals within the American Bar Association say confront the nation's court system. You'll also look at solutions. This will give you a chance to see if Iowa's problems are the same as those that plague the court systems of other states or if Iowa has escaped those problems.

You will be asked to make some conclusions about the future of the Iowa court system. In 1996 when you will be reading about the conclusions reached by the prestigious Commission on Court Planning for the 21st Century, you might be able to say, "I figured that out two years ago!"

FACTORS WHICH THE IOWA COMMISSION MAY LOOK AT

CRIMINAL CASES OVERWHELMING IOWA COURTS

The Chief Justice of the Supreme Court is required by state law to communicate the condition of the judicial branch of government to each General Assembly and recommend matters deemed appropriate. To meet this requirement, the Chief Justice addresses every January a joint session of the legislature (the General Assembly) to report on the court. In January 1995, Chief Justice Arthur McGivern told legislators that the state courts are being buried by an increased caseload. He lamented an unprecedented jump in criminal cases (92% since 1984) which now outnumber civil cases. Because of constitutional and statutory speedy trial requirements, criminal cases receive priority, delaying civil cases, and will soon force out civil cases completely unless additional personnel are added to deal with the increased work.

Chief Justice McGivern also said that the growing number of children with serious legal needs are overwhelming the juvenile courts. He said that , "While public attention has been focused on violent juveniles, let's not forget the thousands of children in the court system who are themselves victims of violence, abuse and neglect. Often times, these children depend on the courts to help put the pieces of their lives back together."

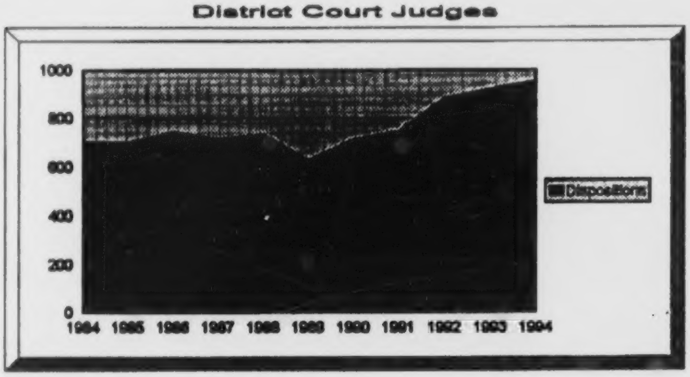
Despite a growing backlog of cases, however, Iowa courts compare well with many other state courts where the courts are so choked with criminal cases that the accused who can't afford bail languish for weeks and even months before her/his case is heard and civil cases are backlogged for years.

Chief Justice McGivern told lawmakers there was a critical need for more judges, court reporters, court attendants, juvenile court officers and assistance for the clerk of courts' staffs. The 1995 Iowa legislature responded by increasing appropriations from $87.7 million for fiscal year 1995 to approximately $90 million for fiscal year 1996. This amounts to about 2.4% of the state budget. Against a request for 17 additional district court judges and 3 more district associate judges, the legislature approved hiring 7 additional district judges and 4 district associate judges.

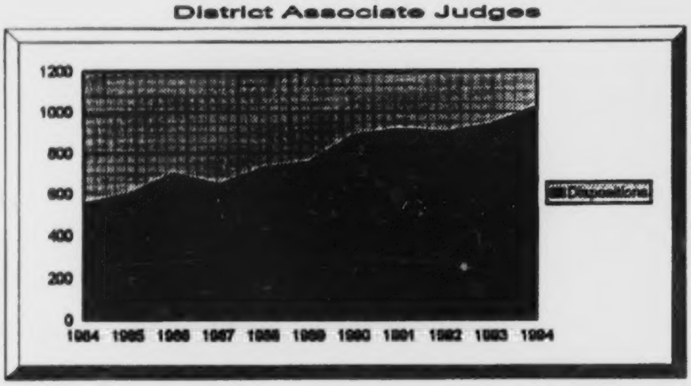
Soaring Case Load

Dispositions Per Judge Reach All-Time High

On the average, today's district court judge disposes of 954 civil and criminal cases, a 36% increase over the 704 cases handled by a judge ten years ago.



In the last ten years, the number of dispositions per district associate judge has mushroomed 86%, from 551 to 1,024.



Jerry Beatty, Executive Director of Judicial Education and Planning for the Iowa Judicial system, sees a number of changes ahead for Iowa courts in the areas of technology, easier access to the court, explorations of new ways to settle conflicts other than the trial system, as well as alternatives to present sentencing. Other areas that need to be addressed in Iowa are equality issues and ways of dealing with new areas of the law.

TECHNOLOGY.

"Technology will undoubtedly be one area in which the Iowa Court system will be changed over the coming years," says Jerry Beatty.

- In June 1994 the Iowa Court Information System (ICIS), a computer network which simplifies and unifies the onerous record keeping of the courts, was set up in 28 of the 99 district courts . That number will at least double in the next few years, but many district courts continue to record data by hand in huge leather-bound books, just as was done a hundred years ago. By the year 2000 it is hoped that the entire state will be covered by the ICIS.

- FAX machines will become common in most district courts. Jerry Beatty envisions the day when law firms will FAX in briefs and other information rather than hand-delivering them, when judges sitting in another court will be able to sign documents via FAX, and when Clerks of Court will be able to send notices and information quickly by FAX instead of mailing them.

- Computers will generate collection of court fines and fees and traffic fines.

- Machines which translate instantly the typing of the court reporter and projects it on a screen are already being used in a number of Iowa courts. These assist the court officials and help hearing-disabled participants to follow the case. Use of these machines — and others which we cannot even imagine now — will spread.

ACCESS

There has always been a concern in the United States that the courts are open to all people, no matter how rich or poor. However, some poor people have been unable to gain access to the court system because they are unable to pay for an attorney for civil actions. Some free legal service is available through government agencies, private agencies and thousands of pro bono (free) hours provided by individual attorneys, but courts are looking for other ways to open legal procedures to more people.

Small Claims Court is one example of how the Iowa court system has implemented measures to make it possible for people to seek redress of grievances through the court without the expense of an attorney.

Other **pro se** (by yourself) procedures have been initiated in Iowa. In 1993, pro se procedures were begun for people seeking protection from their abusive partners and who did not have enough money to hire an attorney to initiate a court process. Such people may file a Petition for Relief from Domestic Abuse and an Affidavit of Lack of Funds. Domestic abuse filings rose to 4,365 in 1994.

Jerry Beatty believes that use of pro se procedures will be expanded to be used for circumstances other than domestic abuse, thus giving people without much money increasing access to the courts.

EQUALITY

Issues of equality still need to be addressed. The 1993 report of the Equality in the Courts Task Force established by the Iowa Supreme Court showed there was racial and gender bias throughout the system which needed to be addressed. Many recommendations made by the Task Force have been implemented, and a monitoring committee will be appointed.

ALTERNATIVE DISPUTE RESOLUTION

There is a growing interest in using other ways of solving disputes than taking them to court for adjudication. Overcrowded courts and the expense of litigation have pushed many states into initiating alternative dispute resolution processes which are different from the court trial in several respects.

Mediation is the most-often used alternative to court procedures. Many people find the results of mediation (a voluntary process in which two parties develop their own resolution to a problem with the guidance of a trained, impartial mediator) are more satisfactory than a decision imposed by the court. Instead of "winning" or "losing" as in a court-imposed decision, the participants strive to find a compromise acceptable to both parties.

There are now in Iowa some private mediation services which often deal with family disputes. More reliance on mediation would assist in freeing the courts from the increasing burden of civil cases. It is likely that such services will be expanded to cover more areas of dispute and to be found in rural as well as urban areas.

Restorative justice is an approach that would change much of our present system with its reliance on vengeance to a system based on reconciliation. It would change the current reliance on court-imposed sentencing to mediation to make things right — to promote healing .

Restorative Justice using mediation. Instead of simply forcing offenders to stand before a judge, restorative justice requires they be asked to face their victims. Victims have a chance to tell wrongdoers firsthand how they have suffered. With a mediator's help, the two parties work out a way to allows both sides to see others as human beings and to make things "right."

In Minneapolis a restorative justice program serves about 400 court-referred clients every year. The program offers victims the chance to ask for reparation and gives culprits the opportunity to redeem themselves. Offenders might pay restitution, go to treatment, perform community service work or even provide a service for others.

ALTERNATIVES TO INCARCERATION

Because of overcrowding of present jails (see Chapter 4 for statistics about Iowa prisons) and because of the expense of building new prisons, alternative ways to deal with offenders are constantly being sought. Prison overcrowding, of course, has an effect on sentencing. There will be continuing debate, for instance, on whether drunk drivers should be given more education and treatment rather than incarcerated or whether there should be increased use of devices such as one which monitors the driver's breath before allowing him/her to drive. Should there be more community resources, more treatment, more personnel to monitor the behavior of offenders in their own community? Should there be greater attention paid to prisoners after they are released, such as helping them find jobs, providing counseling on re-entry to the family and community and other support which might prevent them from re-entering the justice system (recidivism)?

Hands On

1. Interview your Clerk of Court and District Judge and others in your district court to learn how the increased caseload affects them. Do they need additional personnel? Has the Iowa Court Information System (ICIS) — the court information system — been installed in your district court? Are they affected by any of the above-mentioned problems or solutions? What needs of the court are yet unmet? In what ways do they expect the court to change? What do they expect will be the needs of the future?

2. Compare and contrast the Iowa problems and needs with the national problems and needs listed below.

NATIONAL CONCERNS FOR THE FUTURE OF THE AMERICAN JUSTICE SYSTEM

The American Bar Association held a **Just Solutions Conference** in the spring of 1994. The conference was held because it is believed that the American justice system is facing unprecedented challenges . They pointed out that, as social institutions such as the community, the family and church have come apart, "the justice system has taken on the unenviable role of conflict resolver of first resort, and the added role of society's emergency room."

At the same time that reforms must be made within the justice system, the conference concluded that the social ills which create the problems for the courts must also be addressed.

To this end, they said that society must
INITIATE PROGRAMS ON A BROAD FRONT TO

- strengthen the family
- provide education and jobs for all
- reduce crime through community involvement
- increase peer mediation
- disarm the country.

The conference identified internal problems and needs within the justice system and suggested solutions to those problems, including

BETTER ACCESS TO JUSTICE.

Improved Physical Facilities. This includes access for the disabled and elderly who may not be able to get into the courtroom. It means making the courthouse less intimidating — a cleaner, brighter and navigable building.

Appropriate Dispute Resolution. More access to alternatives to the court trial such as mediation which is being employed in a growing number of settings, both within the courts and outside them. Less expensive than a court trial and often more satisfactory because it calls for greater personal involvement in the conflict's resolution, alternative dispute resolution needs to be expanded.

Economic Barriers to Access. A 1994 survey by the American Bar Association found that among low-income families, 71% of disputes that could be addressed by the civil justice system are not finding their way to the justice system; and among moderate-income families, the number is 61%. The most common reason given for not seeking counsel is cost.

Technology. Greater consumer convenience, consumer-friendliness, and access is available through improved technology. Legal hotlines and information lines provide information and assistance to the public. Interactive video can be used for taking pleas, holding hearings without the persons being physically present, at a great savings to the court system and individuals. FAX-filing of pleadings is a reality in some jurisdictions today, as is on-line filing in others.

CONSUMER-FRIENDLY JUSTICE

Humanize the bench and bar. Judges too often appear autocratic and distant. Lawyers sometimes seem incapable of empathizing with their clients. Many court users are treated without civility, or so it seems to them. Basic courtesy is essential.

Demystify justice. The public is confused by today's justice system. One problem is language — legalese, which needs to be put in plain English as often as possible.

Public education about justice should be ongoing. The public from childhood to adulthood should be educated about what the justice system can and cannot do, the use of the system, conflict management, and appropriate dispute resolution.

Encourage public "inreach." By bringing the public into courts as observers and volunteers, the justice system can do much to penetrate the veil of mystery that shrouds the courts and the judicial process today. Solutions included beginning a program of court-watching days with question-and-answer sessions with court personnel, for schools, civic, organizations, and the public and creating opportunities for public volunteerism in the courts.

EQUAL JUSTICE.

Diversity. In a nation that is rapidly becoming more diverse, too few minorities and women are working within the justice system. Recent public opinion research has found that people of all races have been found to believe that the courts do not treat racial and ethnic minorities as well as whites. The reality is even more disturbing. Twelve percent of drug users were African American but they represented 44% of all drug possession arrests. A 1991 California study showed that Hispanics and African Americans receive less favorable plea bargain deals than whites. In the California juvenile justice system, most incarcerated offenders are non-white, even though whites represent 75% of all under-18 arrests.

FAMILY AND JUVENILE JUSTICE.

Better integration of juvenile justice and social services. Too often in the treatment of youthful offenders there is an abrupt disconnect between the responsibilities of juvenile justice and social services.

Whenever possible, rehabilitate juvenile offenders in the community rather than in correctional facilities.

Institute diversion programs so charges are dropped upon successful completion of the program.

CRIME.

De-federalize crime. The trend of making more crimes federal is unfortunate, unnecessary, and symptomatic of legislators seeking to appear tough on crime. The bar, the bench, and the media should work in concert to dissuade legislators from needlessly federalizing crimes, and rally public opinion to the cause.

Domestic violence reduction. Give battered women the support they need to bring charges without fear of reprisal, to "fast track" such cases, to help victims find appropriate support services, and to reduce the number of victims repeatedly assaulted by their partners.

Support victims' rights and victim-offender reconciliation (face-to-face mediation between victim and offender with mediator present to attempt to find a way to right the wrong).

Adequate representation for indigent defendants. Budgets for public defenders are plainly inadequate. Without quality representation for criminal defendants, the system does injustice to the constitutional guarantee to representation.

Radically revise sentencing policy and practice. The United States puts more of its citizens in jail than any other country. For the 50 years preceding 1981, the rate of incarceration in the United States held roughly even at around 110 prisoners per 100,000 population. Today that rate is 330 per 100,000. Mandatory minimum sentencing and sending nonviolent offenders to prison creates the overcrowding that too often results in the truly violent criminal being released to the streets long before his term is served.

CIVIL JUSTICE.

In the past two years, 10 states were obliged to suspend temporarily civil trials to accommodate a glut of criminal matters. Funding for the courts must be increased, as well as implementing procedural changes that will help to alleviate backlog and delay.

Heads Up

1. Divide into groups of three. Compare the court problems in Iowa with national court problems listed above.
2. Each group will select one of the problems mentioned above and determine whether this problem exists in their own district court. This may require consulting with some of the people they've gotten to know at the courthouse.
3. Present the conclusions with evidence supporting the conclusions and present it orally or in writing to the class a whole.

CHANGING LAW IMPACTS THE COURT

As problems arise, the Iowa Legislature seeks to solve the problems through legislation. Whenever the Legislature writes new law or changes old law, the result is to create court cases which test the law, to determine how the new law will be interpreted. For instance, the 1995 Legislature discussed making changes in the juvenile law, including provisions that

- allow unannounced school-wide locker searches if students and parents are aware of the policy (current law requires 24-hour notice for searches with the exception that individual lockers may be searched if administrators have reasonable suspicion that a locker contains illegal articles)

- requires name of a juvenile be made public if a minor commits what would be an aggravated misdemeanor or felony if committed by an adult (current law restricts release of information to youths age 14 and above, and only after a complaint has been filed with the juvenile court officer)

- requires that 16- and 17-year-olds automatically be referred to adult court if they used a firearm, committed a drug or felony offense, or committed any forcible felony

- requires school officials to notify local law enforcement officials concerning possession of any dangerous weapon in violation of state law or school policy

- establishes a new class "D" felony for carrying a firearm on school property

- requires that minor drivers with a blood-alcohol content of .02 will lose their driver's license for 30 days for first-time offense, and 90 days for repeat offenders. No temporary driving permits allowed.

- requires the juvenile court to notify the school attended by the juvenile offender if an informal adjustment is reached regarding the juvenile (if the juvenile is age 14 or over and if the offense would be an aggravated misdemeanor or felony if committed by an adult)

- strikes the year-old language which allows an underage person to drink in a private home, outside the presence of the person's parent, if the person has a signed note from the person's parent, and specifies that the peace officer who takes juveniles in possession of alcoholic beverages or illegal drugs into custody must notify a juvenile court officer who must in turn notify school officials of the action

Mind Shaping

How might these changes in the law results in a court case testing the law? Imagine a possible situation in which police are called to a teen beer party, a student's locker is searched or a17 year-old is taken into custody for OUI (driving under the influence). Role play the people involved, for instance, the student whose locker is searched and the principal who searches the locker. Examine the situation to see how it might result in a lawsuit contesting the validity or interpretation of the law.

CONCLUDING ACTIVITY

Court Fair/Peer Teaching

Hold a demonstration to which you invite people whom you think may be interested. These may include friendly folk from the courthouse and community, parents, teachers, administrators, school board members or fellow students.

Or you may prefer to invite another class to your fair or go to a class in the middle or elementary schools.

In either case, the function of the fair is to share with the fair-attendees all the things you have learned about the court and all the things you did for the court in the service learning projects and to recognize the court and community people who helped you along the way.

Ideas for the fair:

1. Make display boards illustrating what you have done in your service learning projects
2. Write and enact role playing scenarios that will
   A. show how courts in the future will operate to alleviate one or more of the present problems
   B. demonstrate how the court solves problems
   C. illustrate legal procedure
   D. presents a social problem the courts have to deal with
   E. compares the juvenile and adult systems
   F. contrasts a court trial with alternative dispute resolution
3. Enact a mock trial
4. Display drawings
   A. sketches of your courthouse such as those of Bill Wagner who generously allowed us to use his courthouse sketches in this curriculum or other renderings of the courthouse, the court room and the people in the justice system
   B. showing the courtroom of the future
5. Devise a pre- and post-test to see how much the visitors to the fair know about the court system and how much they learn about it from your fair
6. Show the video you made on CHINA cases
7. Give tours of the courthouse which explain the history of the courthouse, how trials are conducted, and the work of the Clerk of Court's office. (Obviously, you would work with the Clerk of Court in scheduling this)
8. Present a Certificate of Appreciation to each of the persons who assisted you in this project

Glossary

adjudicatory hearing - A hearing to decide whether or not a juvenile committed the offense of which s/he is accused

adversary system - A trial system that pits opposing sides against one another in an attempt to reach a resolution

aftercare - In the juvenile justice system, the equivalent of parole

appellate courts - A court which has the power to hear appeals and to reverse court decisions; refers to a court of review rather than one with trial jurisdiction

alternative dispute resolution - Methods of settling disputes other than going to a formal trial. Mediation and arbitration are examples.

arraignment - The procedure in which a person is brought to court and officially told of the charges against him or her. If the person pleads guilty, he or she is sentenced by the judge. If he or she pleads not guilty, the case is set for trial. Bail, if any, is also set at this time.

bail - A sum of money set by a judge which is paid to the court on behalf of a person accused of a crime. Bail is supposed to assure that the person will return for trial.

bench trial - A trial in which there is no jury; the judge hears the evidence and determines the outcome.

booking - The formal listing by the police of the name of a person and the crime of which he or she is accused. This takes place after an arrest.

briefs - Written documents presented to the court by a lawyer usually setting forth both facts and law in support of his or her case

burglary - Breaking and entering a building with the intention of committing a felony

challenge for cause - A prospective juror may be dismissed if s/he is related to someone in the case, could benefit from the case, has already formed an opinion in the case

change of venue - When a trial is moved to another judicial district

CHINA - (Child in Need of Assistance) A petition filed with the court when a child is believed to be abandoned, abused, neglected, or otherwise in need and without resources

civil law - Having to do with the establishment, recovery, or redress of private and civil rights

contract - A legal agreement between two or more parties. It consists of an offer, acceptance, and consideration

criminal intent - A determination to achieve a particular end by a particular means

criminal law - The statutes that forbid certain actions or conduct as detrimental to the welfare of the state and that provide punishment. Criminal acts are prosecuted by the prosecuting attorney

defendant - The person against whom a claim is being made. In a civil suit, the defendant is the person being sued. In a criminal case, the defendant is the person charged with committing a crime

delinquent act - An act committed by a juvenile that if committed by an adult would be a crime

depositions - Written testimony

deterrence - The idea that punishment of criminals will prevent or deter other crimes

dispositional hearing - A hearing to decide what should be done with a juvenile who has been found to be delinquent

district court - A court that hears trials within a judicial district

due process - The idea stated in the Fifth and Fourteenth Amendments that every person involved in a legal dispute is entitled to a fair hearing or trial. The requirements of due process vary from situation to situation, but due process basically requires that no law or government procedure be arbitrary or unfair

en banc - When all nine members of the Iowa Supreme Court hear a case

eye for an eye - A concept of justice based on revenge

federalism - The United States' system of government that divides the power between the federal government and the state governments

felony - A serious crime punishable by confinement in the penitentiary for five years to live

FINA - (Family In Need of Assistance) A petition filed by either the child or the parent(s) asking the court to help the family deal with a breakdown in its relationship by using court resources and authority to seek a solution to the problem

indeterminate sentence - A prison sentence for an indefinite period of time, say "one year to life." Under this system of sentencing, a prisoner is released if and when the parole board decides he or she has been rehabilitated

indictment - A written accusation prepared by a grand jury charging that a certain person has committed a crime

indigent - Impoverished; needy; poor; without funds; a defendant who is too poor to hire an attorney to represent him/her in a criminal case

intake - The informal process by which court officials or social workers decide if a complaint against a youth should be referred to juvenile court

interrogatories - Written questions

judicial district - Several counties are grouped to form a district for the purpose of administration of the court system within that district. District court judges travel ("ride the circuit") among the courts within the district

judicial election district - Some judicial districts are divided into two or three judicial election districts for the purpose of nomination, appointment and election of district judges, personnel and administrative matters

judicial review - The process by which courts decide whether the laws passed by Congress or state legislatures are constitutional

jurisdiction - The territory or extent of the right or power of administering law or justice

juvenile - In Iowa law, an individual 17 years of age or younger

larceny - The unlawful taking of another's property with the intent to steal it

lien - A claim against property to secure a debt or other obligation; any money judgment placed against property which prevents a person from selling the property without satisfying the judgment

mandatory sentencing - A prison sentence for a specific length of time that must be served for specific crimes

mediation - A voluntary process in which two parties develop their own resolution to a problem with the guidance of a trained impartial mediator.

Miranda rights - Rights possessed by persons who are arrested by police. As a result of *Miranda v. Arizona*, 1966, the Supreme Court ruled that before being questioned by police, an arrested person must be told of his or her rights

misdemeanor - Generally, an offense against society less serious than a felony, punishable by a fine and/or time in the county jail as opposed to the state prison

notice of appeal - The document losers of a lawsuit may file protesting the decision and asking the appeals court for redress

offense - A term used in juvenile law for a violation of the law

opinion - A judge's ruling and reasons for the decision

original jurisdiction - The Iowa Supreme Court's power to hear a case before it is tried in a lower court — cases of reapportionment, discipline of attorneys, and issuing temporary injunctions are examples of cases that are under original jurisdiction

parens patriae - The doctrine under which the court protects the interests of a juvenile

petition - A request for a court order

plaintiff - The person who brings (starts) a lawsuit against another person

plea bargaining - The process by which prosecuting and defense attorneys, with the permission of the defendant, agree that the defendant will plead guilty to a lesser charge

pleading - The defendants answer to a civil petition

peremptory challenges - When an attorney dismisses a prospective juror without explaining the reason. Each side has a limited number of peremptory challenges.

preponderance of the evidence - Evidence of greater weight or more convincing to prove one party's version of the disputed issue or event; the amount of evidence that overcomes evidence offered in opposition. This is the standard of proof used in civil trials

probable cause - A strong belief, based on facts, that a crime has been committed, that a certain person has committed a crime, and/or that evidence relating to crime exists

pro se - A Latin term meaning "for oneself," "on one's own behalf," typically used to describe a person who represents him- or herself in court

prosecutor - The government's attorney in a criminal case

reasonable doubt (beyond a) - The level of proof required to convict a person of a crime. It does not mean absolute certainty but does mean there are no reasonable doubts as to guilt

recidivism - Repeated relapse into crime

recognizance - A bond binding a person to do some particular act

rehabilitation - The act of attempting to change or reform a convicted person so that he or she will not commit another criminal act

restitution - The giving back of what has been taken away

retention vote - Confirmation elections of the appointed court justices

retribution - Punishment in return for an evil deed; revenge

robbery - The unlawful taking of property from a person's immediate possession by force or threat of force

status offender - A juvenile who violates a law which applies only to juveniles. An act which is made illegal if a juvenile commits it

stipulate - To demand as a condition of agreement

tort- A wrong or injury committed by one person against the body, property, or rights of another

trial by combat - The Middle Ages' method of determining the truth or right of a matter. Knights or strong men representing each party would fight until one died or begged for mercy. His side lost.

trial by oath - A trial method in which the persons responsible for crimes were determined by the swearing of oaths. The social, moral or financial position of the person swearing the oath on his own or his friend's behalf was the determining factor rather than evidence of guilt or innocence

trial by ordeal - A trial method in which the accused person must endure pain in order to prove his/her innocence - it was believed that God would protect the innocent and that only the guilty would feel the pain.

trial information - A formal statement of the criminal charges filed by the court attorney

waive - To give up some right, privilege , or benefit voluntarily. In certain instances, the juvenile court gives up its right to deal with an accused juvenile and remands the juvenile to adult court.